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No. 10] NEW DELHI, MARCH 2—MARCH 8, 2014, SATURDAY/PHALGUNA 11—PHALGUNA 17, 1935

भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 30 जनवरी, 2014

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 30th January, 2014

का.आ. 791.—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 9 के उप-खंड (1) और (2) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन और अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (च) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श के पश्चात् एतद्वारा, श्री नरेन्द्र जिवराज कोटियावाला (जन्म तिथि 05.04.1958), वरिष्ठ प्रबंधक, ओरियंटल बैंक आफ कामर्स को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा ओरियंटल बैंक आफ कामर्स में उनके अधिकारी के पद पर बने रहने तक अथवा अगले आदेशों तक, इनमें से जो भी पहले हो, ओरियंटल बैंक आफ कामर्स के निदेशक मण्डल में अधिकारी कर्मचारी निदेशक के रूप में नियुक्त करती है।

[फा सं 6/5/2013-बीओ-I]

विजय मल्होत्रा, अवर सचिव

S.O. 791.—In exercise of the powers conferred by clause (f) of sub-section 3 of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) & (2) of clause 9 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government after consultation with the Reserve Bank of India, hereby appoints Shri Narendra Jivaraj Kotiawala (DoB: 05.04.1958), Senior Manager, Oriental Bank of Commerce, as Officer Employee Director on the Board of Directors of Oriental Bank of Commerce, for a period of three years, from the date of notification of his appointment or until he ceases to be an officer of the Oriental Bank of Commerce or until further orders, whichever is the earliest.

[F. No. 6/5/2013-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 30 जनवरी, 2014

का०आ० 792.—कार्मिक एवं प्रशिक्षण विभाग के 30 जनवरी, 2014 के पत्र संख्या 27/4/2014-ई०ओ० (एसएम-1) के द्वारा सूचित नियुक्ति संबंधी मंत्रिमंडलीय समिति के अनुमोदन के अनुसरण में पंजाब एंड सिंध बैंक के अध्यक्ष एवं प्रबंध निदेशक श्री देवेन्द्र पाल सिंह, भा०प्र०से० (यूपी:80) (जन्म तिथि 04.01.1954) को 30 जनवरी, 2014 से उनके संवर्ग अर्थात् उत्तर प्रदेश सरकार को प्रत्यावर्तित किया जाता है।

[फा०सं० 13/21/2011-बीओ-1]
विजय मल्होत्रा, अवर सचिव

New Delhi, the 30th January, 2014

S.O. 792.—Shri Devinder Pal Singh, IAS (UP:80)(DoB: 04.01.1954), Chairman and Managing Director, Punjab & Sind Bank is repatriated to his cadre i.e. Government of Uttar Pradesh w.e.f. 30th January, 2014 in pursuance of approval of the Appointments Committee of the Cabinet conveyed by Department of Personnel & Training vide communication No. 27/4/2014-EO(SM.I) dated 30th January, 2014.

[F.No. 13/21/2011-BO-I]
VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 31 जनवरी, 2014

का०आ० 793.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उपखंड (1), खंड 5, खंड 6, खंड 7 और खंड 8 के उपखंड (1) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, श्री जतिन्दर बीर सिंह, आईएएस (एम:83) (जन्म तिथि 12.12.1957) को 01.02.2014 को अथवा उसके बाद उनके पदभार ग्रहण करने की तारीख से 31.12.2017 तक अर्थात् उनके अधिवर्षिता की आयु प्राप्त करने की तारीख तक अथवा अगले आदेशों तक, जो भी पहले हो, पंजाब एंड सिंध बैंक के अध्यक्ष एवं प्रबंध निदेशक के रूप में नियुक्त करती है।

[फा०सं० 4/7/2013-बीओ-1]
विजय मल्होत्रा, अवर सचिव

New Delhi, the 31st January, 2014

S.O. 793.—In exercise of the powers conferred by clause (a) of sub-section(3) of section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/80 read with sub-clause (1) of clause 3, clause 5, clause 6, clause 7 and sub-clause (1) of clause 8 of the Nationalized Banks (Management and Miscellaneous Provision) Scheme, 1970/80, the Central Government, hereby appoints Shri Jatinder Bir Singh, IAS(AM:83) (DoB: 12.12.1957), as Chairman & Managing Director, Punjab & Sind Bank from the date of taking over charge of the post on or after 01.02.2014 upto 31.12.2017 i.e. the date of his attaining the

age of superannuation or until further orders, whichever is earlier.

[F.No. 4/7/2013-BO-I]
VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 30 जनवरी, 2014

का०आ० 794.—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन और अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3(ज) और (3-क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, श्रीमती अनिता करनावर (जन्म तिथि: 09.10.1957) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, पंजाब एंड सिंध बैंक के निदेशक मण्डल में अंश-कालिक गैर-सरकारी निदेशक नामित करती है।

[फा०सं० 6/56/2013-बीओ-1]
विजय मल्होत्रा, अवर सचिव

New Delhi, the 30th January, 2014

S.O. 794.—In exercise of the powers conferred by sub-section 3(h) and (3-A) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby nominates Smt. Anita Karnavar (DoB: 09.10.1957) as Part-time Non-official Director on the Board of Directors of Punjab & Sind Bank for a period of three years, from the date of notification of her appointment or until further orders, whichever is earlier.

[F.No. 6/56/2013-BO-I]
VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 13 फरवरी, 2014

का०आ० 795.—भारतीय निर्यात-आयात बैंक अधिनियम, 1981 (1981 का 28) की धारा 5 की उप-धारा (2) के साथ पठित धारा 6 की उप-धारा 1(क) और उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, राजस्थान वित्त निगम के अध्यक्ष एवं प्रबंध निदेशक श्री यदुवेन्द्र माथुर, आईएएस (राजस्थान: 86) (जन्म तिथि: 09.11.1959) को पद का कार्यभार ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, भारतीय निर्यात-आयात बैंक के अध्यक्ष एवं प्रबंध निदेशक के पद पर प्रतिनियुक्ति आधार पर नियुक्त करती है।

[फा०सं० 7/5/2013-बीओ-1]
विजय मल्होत्रा, अवर सचिव

New Delhi, the 13th February, 2014

S.O. 795.—In exercise of the powers conferred by sub-section (1)(a) and sub-section (2) of Section 6 read

with sub-section (2) of Section 5 of the Export-Import Bank of India Act, 1981 (28 of 1981), the Central Government hereby appoints Shri Yaduvendra Mathur IAS (RJ: 86) (DoB: 09.11.1959), Chairman & Managing Director, Rajasthan Financial Corporation, on deputation as Chairman & Managing Director Export-Import Bank of India (Exim Bank), for a period of three years from the date of his taking over the charge of the post or until further orders, whichever is earlier.

[F.No. 7/5/2013-BO-I]
VIJAY MALHOTRA, Under Secy.

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 17 फरवरी, 2014

का०आ० 796.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में आकाशवाणी महानिदेशालय, प्रसार भारती (सूचना और प्रसारण मंत्रालय) के अधीनस्थ कार्यालय, आकाशवाणी, त्रिशूर जिसके 80% से अधिक कर्मचारीवृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[फा०सं ई-11017/6/2012-हिंदी]

प्रियम्बदा, निदेशक (राजभाषा)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 17th February, 2014

S.O. 796.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies

All India Radio, Thrissur under Directorate General of All India Radio, Prasar Bharti (Ministry of Information and Broadcasting) more than 80% of the staff whereof have acquired the working knowledge of Hindi.

[F.No. E-11017/6/2012-Hindi]
PRIYAMVADA, Director (O.L.)

नई दिल्ली, 17 फरवरी, 2014

का०आ० 797.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में आकाशवाणी महानिदेशालय, प्रसार भारती (सूचना और प्रसारण मंत्रालय) के अधीनस्थ कार्यालय, आकाशवाणी, त्रिशूर जिसके 80% से अधिक कर्मचारीवृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[फा०सं ई-11017/6/2012-हिंदी]

प्रियम्बदा, निदेशक (राजभाषा)

New Delhi, the 17th February, 2014

S.O. 797.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies All India Radio, Thrissur under Directorate General of All India Radio, Prasar Bharti (Ministry of Information and Broadcasting) more than 80% of the staff whereof have acquired the working knowledge of Hindi.

[F.No. E-11017/6/2012-Hindi]
PRIYAMVADA, Director (O.L.)

उपभोक्ता मामले, खाद्य, और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 29 अक्टूबर, 2013

का०आ० 798.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 6 के उपविनियम (3) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा नीचे अनुसूची में दिए गए उत्पादों की मुहरांकन शुल्क अधिसूचित करता है:

अनुसूची

भारतीय मानक संख्या	भाग	अनु	वर्ष	उत्पाद	इकाई	न्यूनतम मुहरांकन शुल्क (₹)			इकाई दर स्लैब में	शेष	प्रचालन तिथि
						बड़े पैमाने पर	छोटे पैमाने पर	स्लैब 1			
1	2	3	4	5	6	7	8	9	10	11	12
335	—	—	1993	नये विद्युत रोधन तेल	1 किलो लिटर	74000	63000	8.70	सभी	—	12.02.2013
1626	3	—	1994	एस्बेस्टॉस सीमेंट के भवन निर्माण पाइप्स तथा पाइप फिटिंग्स, गटर, गटर फिटिंग्स तथा छत निर्माण भाग-3 छत निर्माण फिटिंग	एक टन	34000	29000	21	सभी	—	12.02.2013
4989	—	—	2006	अग्नि शमन के लिए यांत्रिक झाग उत्पन्न करने हेतु झाग सांद्र	1 लिटर	34000	29000	0.2	सभी	—	12.02.2013

1	2	3	4	5	6	7	8	9	10	11	12
6452	-	-	1989	संरचनात्मक उपयोग के लिए उच्च एलुमिना सीमेंट	एक टन	44000	38000	4.00	सभी	-	तुरन्त प्रभाव से
7834	3	-	1987	जल आपूर्ति हेतु इन्जेक्शन मॉल्ड्ड पीवीसी सॉकेट फिटिंग सहित सॉल्वेंट सीमेंट के जोड़ भाग 3-90 डिग्री एल्बो हेतु विशेष अपेक्षाएं	100 पीस	34000	29000	8.65	सभी	-	12.02.2013
15500	5	-	2004	गहराई से पानी निकालने के हथ-बरमे-घटक और विशेष औजार भाग 5-कास्ट आयरन	100 पीस	34000	29000	₹ 13.9 (Fig. 5.5, 5.6) ₹ 10.4 (Fig. 5.4) ₹ 17.3- (Fig. 5.1, 5.2, 5.3)	-	-	12.02.2013
15500	6	-	2004	गहराई से पानी निकालने के हथ-बरमे-घटक और विशेष औजार भाग 6-ब्रास/ब्रॉज घटक	100 पीस	34000	29000	₹ 8.7 (Fig. 6.16, 6.2 6.15) ₹ 3.5 (Fig. 6.3, 6.9) ₹ 7.0 (6.10, 6.12, 6.4) ₹ 20.8 (Fig. 6-13) ₹ 5.3 (Fig. 6.5) 10.4 (Fig. 6.6) ₹ 15.6 (Fig. 6.8 ₹ 13.9 (Fig. 6.7) ₹ 2.7 (Fig. 6.1.1) ₹ 17.3 (Fig. 6.14) ₹ 2.6 (Fig. 6.1)	-	-	12.2.2013
15500	7	-	2004	गहराई से पानी निकालने के हथ-बरमे-घटक और विशेष औजार भाग 7-रबड़ के घटक	100 पीस	34000	29000	1.75 (Fig. 7.1, 7.2) ₹ 3.5 (Fig. 7.6, 7.7, 9) ₹ 7 (Fig. 7.8, 7.5,	-	-	12.02.2013

1	2	3	4	5	6	7	8	9	10	11	12
								7.4, 7.12, 7.13, 7.14, 7.15) 10.4 (Fig. 7.3) 5.3 (Fig. 7.10, 7.11)			
15787	-	-	2008	स्विच सॉकेट आउटलेट्स (नॉन इंटरलॉकिंग टाइप)	100 पीस	34000	29000	3.50	सभी	-	12.02.2013
15884	-	-	2010	सक्रिय ऊर्जा हेतु प्रत्यावर्ती धारा प्रत्यक्ष जुड़े, स्थैतिक पूर्वभुगतान वाले मीटर (श्रेणी 1 एवं 2)	एक पीस	3,20000	2,72000	3.00	सभी	-	तुरंत प्रभाव से
15905	-	-	2011	लोहे के हवलैस, अपकेन्द्री ढले (स्पन) पाइप, फिटिंगे और सहायकांग) - स्पिगट श्रेणी	एक टन	51000	43000	9.00	सभी	-	तुरंत प्रभाव से

[सं० सीएमडी/13:10]

पी०के० गम्भीर, वैज्ञानिक 'जी' एवं प्रधान (प्रमाणन)

MINISTRY OF CONSUMERS AFFAIRS FOOD AND PUBLIC DISTRIBUTION**(Department of Consumer Affairs)****BUREAU OF INDIAN STANDARDS**

New Delhi, the 29th October, 2013

S.O. 798.—In pursuance of sub-regulation (3) of regulation 6 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian Standards, hereby notifies the Marking fee for the products given in the Schedule:

SCHEDULE

IS No.	Part	Sec	Year	Product	Units	Minimum Large Scale (in Rs.)	Marking Fee Small Scale (in Rs.)	Unit Rate Slab 1 (in Rs.)	Units in Slab-1	Remain ing	Effective Date
1	2	3	4	5	6	7	8	9	10	11	12
335	-	-	1993	New Insulating Oils	1 Kilo Litre	74000	63000	Rs. 8.70	All	-	12.02.2013
1626	3	-	1994	Asbestos Cement Building Pipes and Pipe Fittings, Gutters and Gutter Fittings and Roofing Fittings Part 3-Roofing Fittings	1 Tonne	34000	29000	Rs. 21.00	All	-	12.02.2013
4989	-	-	2006	Foam Concentrate for Producing Mechanical Foam for Fire Fighting	1 Litre	34000	29000	Rs. 0.2	All	-	12.02.2013
6452	-	-	1989	High Alumina Cement for Structural Use	One Tonne	44000	38000	Rs. 4.00	All	-	With immediate effect
7834	3	-	1987	Injection moulded PVC socket fitting with solvent cement joints for water supplies Part 3- Specific requirements for 90 degree elbow	100 Pieces	34000	29000	Rs. 8.65	All	-	12.02.2013
15500	5	-	2004	Deepwell Handpumps, Components and Special Tools Part 5 Cast Iron Components	100 Pieces	34000	29000	Rs. 13.9 (Fig. 5.5 5.6)	-	-	12.02.2013

1	2	3	4	5	6	7	8	9	10	11	12
								Rs. 10.4 (Fig. 5.4) Rs. 17.3 (Fig. 5.1, 5.2 5.3)			
15500	6	-	2004	Deepwell Handpumps, Components and Special Tools Part 6—Brass/Bronze Components	100 Pieces	34000	29000	Rs. 8.7 (Fig. 6.16 6.2, 6.15) Rs. 3.5 (Fig. 6.3, 6.9) Rs. 7.0 (6.10, 6.12 6.4) Rs. 20.8 Fig. 6.13 Rs. 5.3 (Fig. 6.5) Rs. 10.4 (Fig. 6.6) Rs. 15.6 (Fig. 6.8) Rs. 13.9 (Fig. 6.7) Rs. 2.7 (Fig. 6.1.1) Rs. 17.3 (Fig. 6.14) Rs. 2.6 (Fig. 6.1)	-	-	12.02.2013
15500	7	-	2004	Deepwell Handpumps, Components and Special Tools Part 7—Rubber Components	100 Pieces	34000	29000	Rs. 1.75 (Fig. 7.1 7.2) Rs. 3.5 (Fig. 7.6, 7.7, 7.9) Rs. 7 (Fig. 7.8, 7.5, 7.4 7.12, 7.13 7.14, 7.15) Rs. 10.4 (Fig. 7.3) Rs. 5.3 (Fig. 7.10 7.11)	-	-	12.02.2013
15787	-	-	2008	Switch-Socket outlets (Non-interlocking type)	100 Pieces	34000	29000	Rs. 3.50	All	-	12.02.2013
15884	-	-	2010	Alternating Current Direct Connected Static Prepayment Meters for Active Energy (Class 1&2)	One Piece	3,20,000	2,72,000	Rs. 3.00	All	-	With immediate effect
15905	-	-	2011	Hubless Centrifugally Cast (Spun) Iron Pipes, Fittings and Accessories—Spigot Series	One Tonne	51000	43000	Rs. 9.00	All	-	With immediate effect

[No. CMD/13:10]

P.K. GAMBHIR, Scientist 'G' & Chief (Certification)

नई दिल्ली, 15 फरवरी, 2014

का०आ० 799.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद् द्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गये हैं।

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	स्थापित तिथि	भारतीय मानक (कों) जो कि रद्द होने हैं, अगर है, की संख्या वर्ष और शीर्षक	रद्द होने की तिथि
(1)	(2)	(3)	(4)	(5)
1.	आई एस 770: 2013 भारतीय कोयला, लिग्नाइट तथा सेमी-अंध्रासाइट का वर्गीकरण और कोडीफिकेशन (तीसरा पुनरीक्षण)	15 फरवरी 2014	आई एस 770:2013 भारतीय कोयला, लिग्नाइट तथा सेमी-अंध्रासाइट का वर्गीकरण और कोडीफिकेशन (दूसरा पुनरीक्षण)	15 फरवरी 2014
2.	आई एस 2152: 2013 पशुधन आहार घटक के रूप में मक्का ग्लूटेन — विशिष्ट (दूसरा पुनरीक्षण)	15 फरवरी 2014	आई एस 2152:1972 मकई ग्लूटेन भरण के लिए विशिष्ट (पहला पुनरीक्षण)	15 फरवरी 2014
3.	आई एस 2491: 2013 खाद्य स्वच्छता — सामान्य सिद्धांत — रीति संहिता (तीसरा पुनरीक्षण)	15 फरवरी 2014	आई एस 2491:1998 खाद्य स्वच्छता — सामान्य सिद्धांत — रीति संहिता (दूसरा पुनरीक्षण)	15 फरवरी 2014
4.	आई एस 3074: 2013 मोटर वाहन हेतु इस्पात नलिकाएँ - विशिष्ट (तीसरा पुनरीक्षण)	15 फरवरी 2014	आई एस 3074:2005 मोटर वाहन हेतु इस्पात नलिकाएँ - विशिष्ट (दूसरा पुनरीक्षण)	15 फरवरी 2014
5.	आई एस 4046 (भाग 1): 2013 वस्त्रादि — पुरुषों के लिए सूती चढ़ी — विशिष्ट भाग 11 1 रिब बुनी (तीसरा पुनरीक्षण)	15 फरवरी 2014	आई एस 4046 (भाग 1): 1981 पुरुषों के लिए सूती कॉटन धारीदार बुने हुए ब्रीफ की विशिष्ट भाग 1 2 प्लाई धारीदार — बुना हुआ (दूसरा पुनरीक्षण)	15 फरवरी 2014
6.	आई एस 4046 (भाग 2): 2013 वस्त्रादि — पुरुषों के लिए सूती चढ़ी — विशिष्ट भाग 2 सादी बुनी (पहला पुनरीक्षण)	15 फरवरी 2014	आई एस 4046 (भाग 2): 1996 वस्त्रादि — पुरुषों के लिए सूती चढ़ी - विशिष्ट भाग 2 सादी बुनी	15 फरवरी 2014
7.	आई एस 4376: 2013 वस्त्रादि - पुरुषों के लिए छोटे सूती जॉघिए (ट्रंक) — विशिष्ट (पहला पुनरीक्षण)	15 फरवरी 2014	आई एस 4376: 2013 वस्त्रादि - पुरुषों के लिए छोटे सूती जॉघिए (ट्रंक) — विशिष्ट	15 फरवरी 2014
8.	आई एस 5429: 2013 मोटर वाहन हेतु इस्पात	15 फरवरी 2014	आई एस 5429: 2013 मोटर वाहन हेतु इस्पात	15 फरवरी 2014

(1)	(2)	(3)	(4)	(5)
	नलिकाओं के आयाम — (दूसरा पुनरीक्षण)		नलिकाओं के आयाम — (पहला पुनरीक्षण)	
9.	आई एस 6313 (भाग 2): 2013 भवनों में दीमक— अवरोधक उपचार हेतु रीति संहिता भाग 2 निर्माण से पूर्व रासायनिक उपचार (तीसरा पुनरीक्षण)	15 फरवरी, 2014	आई एस 6313 (भाग 2): 2001 भवनों में दीमक— अवरोधक उपचार हेतु रीति संहिता भाग 2 निर्माण से पूर्व रासायनिक उपचार (दूसरा पुनरीक्षण)	15 फरवरी, 2014
10.	आई एस 6313 (भाग 3): 2013 भवनों में दीमक— अवरोधक उपचार हेतु रीति संहिता भाग 3 पूर्व निर्मित भवनों का उपचार (तीसरा पुनरीक्षण)	15 फरवरी, 2014	आई एस 6313 (भाग 3): 2001 भवनों में दीमक—अवरोधक उपचार हेतु रीति संहिता भाग 3 पूर्व निर्मित भवनों का उपचार (दूसरा पुनरीक्षण)	15 फरवरी, 2014
11.	आई एस 7236: 2013 कॉफी और कॉफी उत्पाद — शब्दावली (पहला पुनरीक्षण)	15 फरवरी, 2014	आई एस 7236:1974 कॉफी एवं उसके उत्पादों हेतु की पारिभाषिक शब्दावली	15 फरवरी, 2014
12.	आई एस 7835: 2013 खाने योग्य मध्यम — वसा सोया आटा — विशिष्ट (पहला पुनरीक्षण)	15 फरवरी, 2014	आई एस 7835: 1975 खाने योग्य मध्यम — वसा सोया आटा के लिए विशिष्ट	15 फरवरी, 2014
13.	आई एस 7837: 2013 खाने योग्य पूर्ण-वसा सोया आटा — विशिष्ट (पहला पुनरीक्षण)	15 फरवरी, 2014	आई एस 7837: 1975 खाने योग्य पूर्ण-वसा सोया आटा — विशिष्ट	15 फरवरी, 2014
14.	आई एस 9338: 2013 जलकल के लिए कास्ट आयरन/एस जी आयरन/कास्ट स्टील के स्कू-डाउन रोक वाल्व - विशिष्ट (दूसरा पुनरीक्षण)	15 फरवरी, 2014	आई एस 9338:1984 पानी संबंधी कार्यों के प्रयोजनार्थ ढलवां आयरन स्कू-डाउन स्टॉप वाल्व एवं स्टॉप एवं चैक वाल्व की विशिष्ट (पहला पुनरीक्षण)	15 फरवरी, 2014
15.	आई एस 12949: 2013 मिट्टी तथा रॉकफिल के बांधों में रंध्र दाब मापन के लिए उपकरणों का संस्थापन, रखरखाव और प्रेक्षण — विद्युत रंध्र दाब सेल कम्पी तार किस्म — रीति संहिता (पहला पुनरीक्षण)	15 फरवरी, 2014	आई एस 12949:1990 मिट्टी के बांधों में रंध्र दाब मापन के लिए उपकरणों की संस्थापन रख रखाव और प्रेक्षण की रीति संहिता — विद्युत रंध्र दाब — सेल कम्पी तार किस्म	15 फरवरी, 2014
16.	आई एस 13258: 2014 अल्प दाब द्रवणीय गैस के लिए 5 लिटर से अधिक जल क्षमता वाले वेलिडेट अल्प कार्बन	15 फरवरी, 2014	आई एस 13258:1991 अल्प दाब द्रवणीय गैस के लिए 5 लिटर से अधिक जल क्षमता वाले	15 फरवरी, 2014

(1)	(2)	(3)	(4)	(5)
	इस्पात के सिलिंडर — उपयोग किये गये एलपीजी सिलिंडरों के पुनर्वीयन और निरीक्षण की अपेक्षाएँ (पहला पुनरीक्षण)		वैलिट अल्प कार्बन इस्पात के सिलिंडर — उपयोग किये गये एल पी जी सिलिंडरों के पुनर्वीयन और निरीक्षण की रीति संहिता	
17.	आई एस 14320:2013 वस्त्रादि — महिलाओं के लिये सादी बुनी सूती पैन्टीज — विशिष्ट (पहला पुनरीक्षण)	15 फरवरी, 2014	आई एस 14320:2013 वस्त्रादि — महिलाओं के लिये सादी बुनी सूती पैन्टीज — विशिष्ट	15 फरवरी, 2014
18.	आई एस 14325:2013 पशुओं के लिए बाईपास प्रोटीन आहार — विशिष्ट (पहला पुनरीक्षण)	15 फरवरी, 2014	आई एस 14325:2013 पशुओं के लिए बाईपास प्रोटीन आहार — विशिष्ट	15 फरवरी, 2014
19.	आई एस 14715 (भाग 2) : 2013 जूट के भूवस्त्र भाग-2 नदियों तथा पानी के जलाशयों के किनारों को काटने से रोकना — विशिष्ट (पहला पुनरीक्षण)	15 फरवरी, 2014	बुने हुए जूट के भूवस्त्र — विशिष्ट	15 फरवरी, 2014
20.	आई एस 15000:2013 जोखिम विश्लेषण एवं क्रांतिक नियंत्रण बिंदु (एचएसीसीपी) खाद्य श्रृंखला के संगठन के लिए अपेक्षाएँ (पहला पुनरीक्षण)	15 फरवरी, 2014	आई एस 15000:1998 खाद्य स्वच्छता — खतरा विश्लेषण और क्रांतिक नियंत्रण बिन्दु (एचएसीसीपी) — प्रणाली और उसके अनुप्रयोग हेतु मार्गनिर्देश	15 फरवरी, 2014
21.	आई एस 16096:2013 बांस-पटसन कंपोजिट के खोखले दरवाजों के शटर्स — विशिष्ट	15 फरवरी, 2014	लागू नहीं	लागू नहीं
22.	आई एस 16113:2013 गामा पिकोलीन — विशिष्ट	15 फरवरी, 2014	लागू नहीं	लागू नहीं

इस भारतीय मानक की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुरशाह जफर मार्ग, नई दिल्ली 110 002 क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई, तथा शाखा कार्यालयों: अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं। भारतीय मानकों को <http://www.standardsbis.in> द्वारा इंटरनेट पर खरीदा जा सकता है।

[संदर्भ पब/एसटीडी-1:1]

कला माधवी वारियर, निदेशक (विदेशी भाषा एवं प्रकाशन)

New Delhi, the 15th February, 2014

S.O. 799.—In pursuance of Clause (b) of sub-rule (1) of Rules 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the second column of Schedule hereto annexed has been established on the date indicated against it in third column. The particulars of the standards, if any, which are given in the fourth column shall also remain in force concurrently till they are cancelled on the date indicated against them in the fifth column.

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Established	Date of Establishment	No. & Year of the Indian Standards to be cancelled, if any	Date of cancellation
(1)	(2)	(3)	(4)	(5)
1.	IS 770:2013 'Classification and codification of Indian coals, lignites and semi-anthracites (Third Revision)'	15 Feb., 2014	IS 770:2013 'Classification and codification of Indian coals, lignites and semi-anthracites (Second Revision)'	15 Feb., 2014
2.	IS 2152:2013 Maize Gluten As Livetock Feed Ingredient — Specification (Second Revision)	15 Feb., 2014	IS 2152:1972 Specification For Maize Gluten Feed (First Revision)	15 Feb., 2014
3.	IS 2491:2013 Food Hygiene — General Principles — Code of Practice (Third Revision)	15 Feb., 2014	IS 2491:1998 Food Hygiene — General Principles — Code of Practice (Second Revision)	15 Feb., 2014
4.	IS:3074:2013 Steel tubes for Automotive purposes— specification (Third Revision)	15 Feb., 2014	IS3074:2005 Steel tubes for Automotive purposes — specification (Second Revision)	15 Feb., 2014
5.	IS 4046 (Part I): 2013 Textiles — Gents' cotton briefs — Specification part 1:1 x 1 Rib Knitted	15 Feb., 2014	IS 4046 (Part I): 1981 Specification for gents cotton rib knitted briefs Part 1-2 ply rib-knitted	15 Feb., 2014
6.	IS 4046 (Part 2) : 2013 Textiles—Gents' cotton briefs— Specification Part 2 Plain Knitted (First Revision)	15 Feb., 2014	IS 4046 (Part 2):1996 Textiles—Gents' cotton briefs—Specification Part 2 Plain knitted	15 Feb. 2014
7.	IS 4376:2013 Textiles —Gents' Cotton short drawers (trunks)— Specification (First Revision)	15 Feb., 2014	IS 4376:1996 Textiles—Gents' cotton short drawers (Trunks)— Specification	15 Feb., 2014
8.	IS 5429:2013 Dimensions for Steel tubes for Automotive purposes (Second Revision)	15 Feb., 2014	IS 5429:1979 Dimensions for Steel tubes for Automotive purposes (First Revision)	15 Feb., 2014
9.	IS 6313 (Part 2): 2013 Code of Practice for Anti-Termite Measures in Buildings — Part 2:	15 Feb., 2014	IS 6313 (Part 2):2001 Code of Practice for Anti-Termite Measures in Buildings — Part 2:	15 Feb., 2014

(1)	(2)	(3)	(4)	(5)
	Pre-Constructional Chemical Treatment Measures (Third Revision)		Pre-Constructional Chemical treatment Measures (Second Revision)	
10.	IS 6313 (Part 3):2013 Code of Practice for Anti-Termite Measures in Buildings — Part 3: Treatment for Existing Buildings (Third Revision)	15 Feb., 2014	IS 6313 (Part 3):2001 Code of Practice for Anti-Termite Measures in Buildings — Part 3: Treatment for Existing Buildings (Second Revision)	15 Feb., 2014
11.	IS 7236:2013 Coffee and coffee products — Vocabulary (First Revision)	15 Feb., 2014	IS7236:1974 Glossary of terms for coffee and its products	15 Feb., 2014
12.	IS 7835:2013 Edible medium-fat soya flour — Specification (first revision)	15 Feb., 2014	IS 7835:1975 Specification edible medium-fat soya flour	15 Feb., 2014
13.	IS 7837:2013 Edible full-fat soya flour— Specification (first revision)	15 Feb., 2014	IS 7837:1975 Specification edible full-fat soya flour	15 Feb., 2014
14.	IS 9338:2013 Cast Iron/S.G. Iron/Cast Steel screw-down stop valves for water works purposes — Specification (Second Revision)	15 Feb., 2014	IS 9338:1984 Specification for cast iron screw-down stop valves and stop and check valves for water works purposes (First Revision)	15 Feb., 2014
15.	IS 12949:2013 Installation, maintenance and observation of instruments for pore pressure measurements in earth and rockfill dams — Vibrating wire type electrical pore pressure cell — Code of practice (First Revision)	15 Feb., 2014	IS 12949:1990 Code of practice for installation maintenance and observation of instruments for pore pressure measurements in earth dams and rockfill dams: Electrical pore pressure cells — vibratory wire type	15 Feb., 2014
16.	IS 13258:2014 Welded Low Carbon Steel Cylinders Exceeding 5 litre Water Capacity for low Pressure Liquefiable Gas — Requirements for Inspection and	15 Feb., 2014	IS 13258:1991 Welded Low Carbon Steel Cylinders Exceeding 5 litre Water Capacity for low Pressure Liquefiable Gas — Code of practice for Inspection and	15 Feb., 2014

(1)	(2)	(3)	(4)	(5)
	reconditioning of used LPG Cylinders (First Revision)		reconditioning of used LPG Cylinders	
17.	IS 14320:2013 Textiles — Plain Knitted, Ladies', cotton panties—Specification (First Revision)	15 Feb., 2014	IS 14320:1995 Textiles — Plain knitted, Ladies' cotton panties— Specification	15 Feb., 2014
18.	IS 14325:2013 Bypass Protein Feed for Cattle— Specification (First Revision)	15 Feb., 2014	IS 14325:1996 Bypass Protein Feed for Cattle — Specification	15 Feb., 2014
19.	IS 14715 (Part 2): 2013 Jute Geo-Textiles Part 2 control of bank erosion in rivers and waterways— Specification	15 Feb., 2014	IS 14715:2000 Woven jute geotextiles— Specification	15 Feb., 2014
20.	IS 15000:2013 Hazard Analysis and Critical Control Point (HACCP)— Requirements for any organization in the food chain (First Revision)	15 Feb., 2014	IS 15000:1998 Food Hygiene—Hazard Analysis and Critical Control Point (HACCP)—System and Guidelines for its Application	15 Feb., 2014
21.	IS 16096:2013 Bamboo—Jute composite hollow core door shutter—Specification	15 Feb., 2014	NA	NA
22.	IS 16113:2013 'Gamma picoline — Specification'	15 Feb., 2014	Nil	Nil

Copies of these standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: Kolkatta, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Kochi.

[Ref. Pub/STD-1:1]

KALA M. VARIAR, Director (Foreign Languages & Publication)

नई दिल्ली, 21 फरवरी, 2014

कांआ 800.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 4 के उपनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं:—

अनुसूची

क्र० सं०	लाइसेंस सं०	स्वीकृत करने की तिथि, वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्ष	भा० मा० सं० (भाग/ अनुभाग) : वर्ष
1	2	3	4	5	6
1.	4681272	20140101	मेसर्स हैड्रालाइन इंडस्ट्रीस सी०आर०आई० पम्पस प्रायवेट लिमिटेड का यूनिट 43(17), आवारमपालयम रोड, गणपति, कोयम्बतूर-641 006	कृषि अनुप्रयोग के अपकेन्द्री पम्पों के लिए तीन फेज़ीय स्विचरल केज प्रेरण मोटर्स	IS 7538 : 1996

1	2	3	4	5	6
2.	4681676	20140101	मेसर्स मौली टेक्नोलोजिस प्रायवेट लिमिटेड 69, अलगेसन रोड 2, साईबाबा कॉलोनी पोस्ट, कोयम्बतूर-641 011	निम्नजनीय पम्पसेट	IS 8034 : 2002
3.	4682072	20140101	मेसर्स के एस एन आर एक्वा इंडस्ट्रीस सर्वे सं० 335/1, दरवाजा सं० 2/3561, कालमपालयम, तोन्डामतूर ब्लॉक, तीतीपालयम पोस्ट, कोयम्बतूर (दक्षिण) तालुक, कोयम्बतूर-641 010	पैकेजबंद पेयजल (पैकेजबंद मिनरल जल के अलावा)	IS 14543 : 2004
4.	4682577	20140102	मेसर्स अल्फा इंजीनियरिंग इंडस्ट्री सं० 2A, 6वां क्रॉस, वी०के० रोड, तन्नीर पन्दल, पीलमेडु, कोयम्बतूर-641 004	कृषि एवं जल आपूर्ति के लिए बिजली के मोनोसेट पम्प	IS 9079 : 2002
5.	4686383	20140113	मेसर्स सेल्जर इलेक्ट्रोनिक्स लिमिटेड, यूनिट-II चिन्नामडमपालयम, कोयम्बतूर-641 019	250 वोल्ट तक की रेटित वोल्टता वाले और 16 एम्पीयर तक की रेटित करंट वाले प्लग और सॉकेट निकास की विशिष्टि	IS 1293 : 2005
6.	4688690	20140121	मेसर्स रिको अप्लायेंसेस एस एफ सं० 352/4, शास्ता नगर, एस०आई०एच०एस० कॉलोनी, सिंगनल्लूर, कोयम्बतूर-641 014	घरेलू प्रेशर कुकर	IS 2347 : 2006
7.	4690677	20140127	मेसर्स क्यूब एक्वा प्रोडक्ट्स एस एफ सं० 1044/2, दरवाजा सं० 28/2 काट्टूर सड़क, कालापट्टी कोयम्बतूर-641 048	स्वच्छ ठंडे पानी के लिए अपकेन्द्रीय पुनरुत्पादक पम्प	IS 8472 : 1998
8.	4691073	20140127	मेसर्स श्री साई राम एक्वा प्रोडक्ट्स, सं० 24/B4, श्री साई गार्डन, ऊतकूल्ली ब्लॉक, कुन्नतूर, अविनाशी तालुक, तिरुप्पूर-638 103	पैकेजबंद पेयजल (पैकेजबंद मिनरल जल के अलावा)	IS 14543 : 2004
9.	4693784	20140131	मेसर्स क्रिष टेक्स एस एफ सं० 255, नालु काल तोट्टम, राकाची गार्डन के पीछे, मनीयकारनपालयम, गणपति, कोयम्बतूर-641 006	कृषि एवं जल आपूर्ति के लिए बिजली के मोनोसेट पम्प	IS 9079 : 2002

[सं० सीएमडी/13:11]

एम० सदाशिवम, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 21st February, 2014

S.O. 800.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulation, 1988, of the Bureau of Indian Standards, hereby notifies the grant of licence particulars of which are given in the following schedule :—

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and Address (Factory) of the Party	Title of the Standard	IS No. Part/ Sec. Year
1	2	3	4	5	6
1.	4681272	20140101	M/s. Hydraline Industries (Unit of C.R.I. Pumps Private Limited) 43(17), Avarampalayam Road, Ganapathy, Coimbatore-641006.	Three phase Squirrel cage induction motors for centrifugal pumps for agricultural applications	IS 7538 : 1996
2.	4681676	20140101	M/s. Mouli Technologies Private Limited 69, Alagesan Road 2, Saibaba Colony Post, Coimbatore-641011.	Submersible Pumpsets	IS 8034 : 2002
3.	4682072	20140101	M/s. KSNR Aqua Industries S. No. 335/1, Door No. 2/356 I, Kalampalayam, Thondamuthur Block, Theethipalayam Post, Coimbatore (South) Taluk, Coimbatore-641010.	Packaged Drinking Water (other than Packaged Natural Mineral Water)	IS 14543 : 2004
4.	4682577	20140102	M/s. Alfaa Engineering Industry No. 2A, 6th Cross, V.K. Road, Thaneer Pandal, Peelamedu, Coimbatore-641004.	Electric Monoset Pumps for Clear, Cold Water for Agricultural and Water Supply Purposes	IS 9079 : 2002
5.	4686383	20140113	M/s. Salzer Electronics Ltd. Unit-II Chinnamadampalayam, Coimbatore-641019	Plugs and Socket outlets of 250 Volts and rated current upto 16 Amperes	IS 1293 : 2005
6.	4688690	20140121	M/s. RIICO Appliances S.F. No. 352/4, Sastha Nagar, SIHS Colony, Singanallur, Coimbatore-641014.	Domestic Pressure Cooker	IS 2347 : 2006
7.	4690677	20140127	M/s. Qube Aqua Products S.F. No. 1044/2, Door No. 28/2C, Kattoor Street, Kalapatti, Coimbatore-641048	Centrifugal Regenerative Pumps for clear, cold water	IS 8472 : 1998
8.	4691073	20140127	M/s. Sri Sai Ram Aqua Products No. 24/B4 Sri Sai Garden, Uthukuli Block, Kunnathur, Avinashi Taluk, Distt: Tiruppur-638103.	Packaged Drinking Water (other than Packaged Natural Mineral Water)	IS 14543 : 2004
9.	4693784	20140131	M/s. Krish Tex SF. No. 255, Naalu Kaal Thottam, Behind Rakkachi Garden, Maniyakaranpalayam, Ganapathy, Coimbatore-641006	Electric Monoset Pumps for Clear, Cold Water for Agricultural and Water Supply Purposes	IS 9079 : 2002

[No. CMD/13:11]

M. SADASIVAM, Scientist 'F' & Head

नई दिल्ली, 21 फरवरी, 2014

का०आ० 801.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 5 के उप-विनियमन (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शाई गई तारीख से रद्द/स्थगित कर दिया गया है:—

अनुसूची

क्र० सं०	लाइसेंस सं०	लाइसेंसधारी का नाम व पता	स्थगित किए गए/रद्द किए गए लाइसेंस के अंतर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द होने की तिथि
जनवरी 2014-शून्य				

[सं० सीएमडी/13:13]

एम० सदाशिवम, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 21st February, 2014

S.O. 801.—In pursuance of sub-regulation (6) of the regulation 5 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies that licence, particulars of which are given below, have been cancelled/suspended with effect from the date indicated against each:

SCHEDULE

Sl. No.	Licence No. CM/L-	Name and Address of the Licensee	Article/Process with relevant Indian Standard covered by the licence cancelled/suspension	Date of Cancellation
JANUARY 2014 — NIL				

[No. CMD/13: 13]

M. SADASIVAM, Scientist 'F' & Head

मानव संसाधन विकास मंत्रालय

(उच्चतर शिक्षा विभाग)

(राजभाषा एकक)

नई दिल्ली, 4 फरवरी, 2014

का०आ० 802.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम 4 के अनुसरण में, मानव संसाधन विकास मंत्रालय (उच्चतर शिक्षा विभाग) के अंतर्गत इंदिरा गांधी राष्ट्रीय मुक्त विश्वविद्यालय, नई दिल्ली के 13 क्षेत्रीय केन्द्रों को, ऐसे कार्यालयों के रूप में, जिनके 80 प्रतिशत से अधिक कर्मचारी-वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:—

1. इग्नू क्षेत्रीय केंद्र, निरमा इंस्टिट्यूट ऑफ टेक्नालॉजी के सामने, सरखेज गांधीनगर हाईवे, छरोड़ी अहमदाबाद-382481, गुजरात
2. इग्नू क्षेत्रीय केंद्र, सौराष्ट्र यूनिवर्सिटी कैम्पस, राजकोट-360005, गुजरात
3. इग्नू क्षेत्रीय केंद्र, तीसरा तल, सुमन प्लाजा, तिलकामांझी, सेंट्रल जेल रोड, भागलपुर, बिहार
4. इग्नू क्षेत्रीय केंद्र, दूसरा तल, राजशेखर भवन, रानी दुर्गावती विश्वविद्यालय परिसर, पंचमेढी, जबलपुर-482001, मध्यप्रदेश
5. इग्नू क्षेत्रीय केंद्र, 3/310, मरिस रोड, अलीगढ़-202001, उत्तर प्रदेश
6. इग्नू क्षेत्रीय केंद्र, प्रथम मंजिल, एम०एस०एफ०सी० बिल्डिंग, 270, सेनापति बापत रोड, पुणे-411016, महाराष्ट्र
7. इग्नू क्षेत्रीय केंद्र, ओम लीवा विकास निकेतन, नानेपाडा रोड, मिलंद-ई, मुम्बई-400081, महाराष्ट्र
8. इग्नू क्षेत्रीय केंद्र, ऑफिस रोड, डिस्ट्रि एग्रीकल्चर आफिस रोड, पंचायत भवन के पीछे, कोरापुट-764020, उड़ीसा

9. इग्नू क्षेत्रीय केंद्र, समीप कौशल्या मेशन, गोपालदास क्लिनिक, नया बाजार, सहरसा, बिहार-582201
10. इग्नू क्षेत्रीय केंद्र, ललित नारायण मिथिला यूनिवर्सिटी परिसर, कामेश्वर नगर, सेंट्रल बैंक के पास, दरभंगा-846004
11. इग्नू क्षेत्रीय केंद्र, गांधी भवन, बीएचयू परिसर, वाराणसी-221005, उ०प्र०
12. इग्नू क्षेत्रीय केंद्र, सेक्टर-अलीगंज, लखनऊ-226024, उत्तर प्रदेश
13. इग्नू क्षेत्रीय केंद्र, 457 ए, अशोक नगर, रांची-834002, झारखंड

[सं० 11011-1/2013-रा०भा०ए०]
जगमोहन सिंह राजू, संयुक्त सचिव

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Higher Education)

(O.L. UNIT)

New Delhi, the 4th February, 2014

S.O. 802.—In pursuance of sub-rule (4) of rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies 13 Regional Centres of Indira Gandhi National Open University, New Delhi under the Ministry of Human Resource Development (Department of Higher Education) as offices whose more than 80% members of the staff have acquired working knowledge of Hindi:—

1. IGNOU Regional Centre, Opp. Nirma Institute of Technology, Surkhej Gandhinagar Highway, Charodi, Ahmedabad-382481, Gujarat.
2. IGNOU Regional Centre, Saurashtra University Campus, Rajkot-360005, Gujarat.
3. IGNOU Regional Centre, 3rd Floor, Suman Plaza, Tilakamanjhi, Central Jail Road, Bhagalpur, Bihar.
4. IGNOU Regional Centre, 2nd Floor, Rajshekhar Bhawan, Rani Durgawati University Campus, Panchmerhi, Jabalpur-482001, Madhya Pradesh.
5. IGNOU Regional Centre, 3/310, Maurice Road, Aligarh-202001, Uttar Pradesh.
6. IGNOU Regional Centre, 1st Floor, M.S.F.C. Building, 270 Senapati Bapat Road, Pune-411016, Maharashtra.
7. IGNOU Regional Centre, Om Liva Vikas Niketan, Nanepara Road, Milind-E, Mumbai-400081, Maharashtra.
8. IGNOU Regional Centre, Office Road, Distt. Agriculture Office Road, Opp. Panchayat Bhawan, Koraput-764020, Orissa.
9. IGNOU Regional Centre, near Kaushalya Mension, Gopaldas Clinic, Naya Bazar, Saharsa, Bihar-582201.
10. IGNOU Regional Centre, Lalit Narayan Mithila University Campus, Kameshwar Nagar, near Central Bank, Durbhanga-846004.
11. IGNOU Regional Centre, Gandhi Bhawan, BHU Campus, Banaras-221005, U.P.
12. IGNOU Regional Centre, Sector-Aliganj, Lucknow-226024, Uttar Pradesh.
13. IGNOU Regional Centre, 457 A, Ashok Nagar, Ranchi-834002, Jharkhand.

[No. 11011-1/2013-O.L.U.]
JAGMOHAN SINGH RAJU, Jt. Secy.

भारी उद्योग और लोक उद्यम मंत्रालय

(भारी उद्योग विभाग)

नई दिल्ली, 19 फरवरी, 2014

का०आ० 803.—लोक परिषद (अनाधिकृत दखलकारों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार नीचे दी गई तालिका के कॉलम (1) में वर्णित अधिकारियों को, भारत सरकार के राजपत्रित अधिकारी की श्रेणी के बराबर

का अधिकारी होने के नाते उपर्युक्त अधिनियम के प्रयोजनार्थ एतद्वारा संपदा अधिकारी के रूप में नियुक्त करती है। वह प्रदत्त शक्तियों का प्रयोग करेंगे और इस तालिका के कॉलम (2) में तदनुरूपी प्रविष्टि में निर्दिष्ट लोक परिसरों के संबंध में उपयुक्त अधिनियम के द्वारा अथवा अंतर्गत संपदा अधिकारियों को सौंपे गए कार्यों का अपने क्षेत्राधिकार की स्थानीय सीमाओं के भीतर निष्पादन करेंगे;

तालिका

अधिकारी का पदनाम	लोक परिसर की श्रेणी तथा क्षेत्राधिकार की स्थानीय सीमाएं
(1)	(2)
महाप्रबंधक (वर्क्स), खरगोधा, गुजरात, हिन्दुस्तान साल्ट्स लिमिटेड, जयपुर, राजस्थान।	हिन्दुस्तान साल्ट्स लिमिटेड से संबंधित और प्रशासनिक नियंत्रणाधीन खरगोधा, गुजरात में स्थित परिसर।
महाप्रबंधक (कार्मिक एवं प्रशासन), जयपुर, राजस्थान।	हिन्दुस्तान साल्ट्स लिमिटेड के निगम मुख्यालय से संबंधित और प्रशासनिक नियंत्रणाधीन खरगोधा, गुजरात में स्थित परिसर तथा जयपुर, मण्डी, हिमाचल प्रदेश और रामनगर, ऊप्र में स्थित इसकी सहायक सांभर साल्ट्स लिमिटेड।
महाप्रबंधक (वर्क्स), सांभर साल्ट्स लिमिटेड, हिन्दुस्तान साल्ट्स लिमिटेड जयपुर की सहायक कंपनी।	सांभर में, सांभर साल्ट्स लिमिटेड, जयपुर से संबंधित परिसर।

[फा०सं० 19-11/2013-पीई-V]

पी० देव, अवर सचिव

MINISTRY OF PUBLIC ENTERPRISES AND HEAVY INDUSTRIES

(Department of Heavy Industry)

New Delhi, the 19th February, 2014

S.O. 803.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officers mentioned in column (1) of the Table below, being officers equivalent to the rank of gazetted officer of the Government of India, to be estate officer for the purposes of the said Act, who shall exercise the powers conferred and perform the duties imposed on estate officers by or under the said Act, within the local limits of his jurisdiction in respect of the public premises specified in the corresponding entry in column (2) of the said Table:

TABLE

Designation of officer	Categories of public premises and local limits of Jurisdiction
(1)	(2)
General Manager (Works), Kharaghoda, Gujarat Hindustan Salts Limited, Jaipur, Rajasthan	Premises belonging to and under the administrative control of Hindustan Salts Limited, situated at Kharaghoda, Gujarat.
General Manager (Personnel and Administration), Jaipur, Rajasthan.	Premises belonging to and under the administrative control of Hindustan Salts Limited, situated at the Corporate Headquarters of Hindustan Salts Limited and its subsidiary Sambhar Salts Limited at Jaipur, Mandi, Himachal Pradesh, and Ramnagar, Uttar Pradesh.
General Manager (Works), Sambhar Salts Limited, a subsidiary of Hindustan Salts Limited, Jaipur	Premises belonging to Sambhar Salts Limited, Jaipur, at Sambhar.

[F. No. 19-11/2013-PE.V]

P. DEB, Under Secy.

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

(स्वास्थ्य एवं परिवार कल्याण विभाग)

नई दिल्ली, 31 अक्टूबर, 2013

का०आ० 804.—भारतीय चिकित्सा परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, भारतीय चिकित्सा परिषद् से परामर्श करके एतद्वारा उक्त अधिनियम की प्रथम अनुसूची में निम्नलिखित और संशोधन करती है नामतः :—

उक्त प्रथम अनुसूची में —

“चौ० चरण सिंह विश्वविद्यालय/मेरठ विश्वविद्यालय, मेरठ, उत्तर प्रदेश के बाद और मान्यता प्राप्त चिकित्सा अर्हता” शीर्षक [इसके बाद कालम (2) में यथा संदर्भित] के अंतर्गत, “अंतिम प्रविष्टि” के सामने “पंजीकरण के लिए संक्षिप्त रूप” (इसके बाद कालम (3) में यथा संदर्भित) शीर्षक के अंतर्गत उससे संबंधित प्रविष्टि में निम्नलिखित को अंतर्विष्ट किया जाएगा, नामतः :—

2	3
“डॉक्टर ऑफ मेडिसिन (त्वचा रोग विज्ञान, यौन रोग विज्ञान, कुष्ठ रोग विज्ञान)”	एम०डी० (डी वी एल) (यह वर्ष 1988 में अथवा उसके बाद एल०एल०आर०एम० मेडिकल कॉलेज, मेरठ, उत्तर प्रदेश में प्रशिक्षित किए जा रहे विद्यार्थियों के सम्बन्ध में चौ० चरण सिंह विश्वविद्यालय/मेरठ विश्वविद्यालय, मेरठ, उत्तर प्रदेश द्वारा स्वीकृत किए जाने पर मान्यता प्राप्त चिकित्सा अर्हता होगी)।
“त्वचा रोग विज्ञान, यौन रोग विज्ञान, कुष्ठ रोग विज्ञान में डिप्लोमा”	एम०डी० (डी वी एल) (यह वर्ष 1987 में अथवा उसके बाद एल०एल०आर०एम० मेडिकल कॉलेज, मेरठ, उत्तर प्रदेश में प्रशिक्षित किए जा रहे विद्यार्थियों के सम्बन्ध में चौ० चरण सिंह विश्वविद्यालय/मेरठ विश्वविद्यालय, मेरठ, उत्तर प्रदेश द्वारा स्वीकृत किए जाने पर मान्यता प्राप्त चिकित्सा अर्हता होगी)।

[सं० यू-12012/14/2013-एम०ई०(पी-II)]

सूबे सिंह, निदेशक

सभी के सम्बन्ध में नोट: 1. किसी स्नातकोत्तर पाठ्यक्रम के लिए प्रदत्त ऐसी मान्यता 5 वर्षों की अधिकतम अवधि के लिए होगी, जिसके उपरान्त इसका नवीनीकरण करवाना पड़ेगा।

2. उप-खंड-4 में यथापेक्षित मान्यता के समयपूर्वक नवीनीकरण संबंधी अपेक्षा में असफल रहने का अनिवार्यतः परिणाम संबंधित स्नातकोत्तर पाठ्यक्रम में दाखिला बंद करने के रूप में निकलेगा।

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 31st October, 2013

S.O. 804.—In exercise of the powers conferred by sub-section (2) of section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:—

In the said Schedule—

(a) against "Ch. Charan Singh University/Meerut University, Meerut, Uttar Pradesh" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

(2)	(3)
"Doctor of Medicine (Dermatology, Venerology & Leprosy)"	MD (DVL) (This shall be a recognised medical qualification when granted by Ch. Charan Singh University/Meerut University, Meerut, Uttar Pradesh in respect of students being trained at L.L.R.M. Medical College, Meerut, Uttar Pradesh on or after 1988).
"Diploma in Dermatology, Venerology & Leprosy"	DDVL (This shall be a recognised medical qualification when granted by Ch. Charan Singh University/Meerut University, Meerut, Uttar Pradesh in respect of students being trained at L.L.R.M. Medical College, Meerut, Uttar Pradesh on or after 1987).

[No. U-12012/14/2013-ME(P-II)]

SUBE SINGH, Director

Note to all: 1. The recognition so granted to a Postgraduate Course shall be for a maximum period of 5 years, upon which it shall have to be renewed.

2. Failure to seek timely renewal of recognition as required in sub-clause 4 shall invariably result in stoppage of admissions to the concerned Postgraduate Course.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 8 जनवरी, 2014

का.आ. 805.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण में नीचे दी गई अनुसूची के स्तम्भ (1) में उल्लिखित व्यक्ति को उक्त अनुसूची के स्तम्भ (2) में की तत्स्थानी प्रविष्टि में उल्लिखित क्षेत्र की बाबत, उक्त अधिनियम के आधीन सक्षम प्राधिकारी के कृत्यों का पालन करने के लिए प्राधिकृत करती है, अर्थात् :—

अनुसूची

प्राधिकारी का नाम और पता	क्षेत्र
श्री जे. एच. सोलंकी, डेप्यूटी डी.डी.ओ. (रीटायर्ड), जीएसपीएल इंडिया ट्रान्सको लिमिटेड, ग्राउण्ड फ्लोर, नोर्थ विंग, जीएसपीएल भवन, प्लॉट नं. ई-18, जीआईडीसी इलेक्ट्रॉनिक इस्टेट, सेक्टर-26, गांधीनगर-382028 (गुजरात)	गुजरात राज्य

2. यह अधिसूचना जारी होने की तारीख से लागू होगी।

[फा. सं. एल-14014/39/2011-जी.पी.]

श्रीप्रकाश अग्रवाल, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 8th January, 2014

S.O. 805.—In pursuance of clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in Land) Act, 1962 (50 of 1962), the Central Government hereby Authorizes the person mentioned in cloumn (1) of the Schedule given below to perform the functions to the Competent Authority under the said Act, in respect of the areas mentioned in cloumn (2) of the said Schedule namely :—

SCHEDULE

Name and Address of the Authority	Area of Jurisdiction
Shri J.H. Solanki, Dy. D.D.O. (Retd.), GSPL India Tranco Limited, Ground Floor, North-wing, GSPL Bhavan, Plot No. E-18, GIDC Electronic Estate, Sector-26, Gandhinagar-382028 (Gujarat)	For the State of Gujarat

2. This notification will be effective from the date of its issue.

[F. No. L-14014/39/2011-GP]

S. P. AGARWAL, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 31 जनवरी, 2014

का०आ० 806.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 मार्च, 2014 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 (धारा-76 की उप धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबंध तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:—

केन्द्र	क्षेत्र के अंतर्गत आने वाले निम्न राजस्व गांव
पुंजै पुगलूर	1. पुंजै पुगलूर उत्तर
करूर तालुक	2. पुंजै पुगलूर दक्षिण
करूर जिला	3. पुंजै पुगलूर (नंजै पुगलूर)
	4. टी एन पी एल टाउन पंचायत (पुंजै पुगलूर दक्षिण)
	5. तोट्टकुरिची पुंजै (पुंजै तोट्टकुरिची)

[सं एस-38013/09/2014-एसएस 1]

पवन कुमार, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 31st January, 2014

S.O. 806.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2014 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI (except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Tamil Nadu namely :—

Centre	Area Comprising the Revenue Villages of
Punjai Pugalur	1. Punjai Pugalur North
Karur Taluk,	2. Punjai Pugalur South
Karur District	3. Pugalur Nanjai (Nanjai Pugalur)
	4. TNPL Town Panchayat (Punjai Pugalur South)
	5. Thottakurichi Punjai (Punjai Thottakurichi)

[No. S-38013/09/2014-SS.I]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 31 जनवरी, 2014

का०आ० 807.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 मार्च, 2014 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध कर्नाटक राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:—

क्रम सं०	राजस्व ग्राम का नाम	होबली	तालुक	जिला
1.	केनजारू गांव	सूरतकल	मंगलौर	दक्षिण केनरा
2.	मलवूरू	सूरतकल	मंगलौर	दक्षिण केनरा
3.	आघापाड़ी	गुरुपुरा	मंगलौर	दक्षिण केनरा
4.	कोलम्बे	गुरुपुरा	मंगलौर	दक्षिण केनरा
5.	कंदावरा	गुरुपुरा	मंगलौर	दक्षिण केनरा

[सं एस-38013/10/2014-एसएस 1]

पवन कुमार, अवर सचिव

New Delhi, the 31st January, 2014

S.O. 807.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees, State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2014 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Karnataka namely :—

Sl. No.	Name of the Rev. Village or Municipal Limits	Hobli	Taluk	District
1.	Kenjar Village	Suratkal	Mangalore	Dakshin Kannada
2.	Malavooru	Suratkal	Mangalore	Dakshin Kannada
3.	Adyapady	Gurupura	Mangalore	Dakshin Kannada
4.	Kolambe	Gurupura	Mangalore	Dakshin Kannada
5.	Kandavara	Gurupura	Mangalore	Dakshin Kannada

[No. S-38013/10/2014-S.S.-I]
PAWAN KUMAR, Under Secy.

नई दिल्ली, 31 जनवरी, 2014

का.आ. 808.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 मार्च, 2014 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:—

केन्द्र	क्षेत्र के अंतर्गत आने वाले निम्न राजस्व गांव
तिरुनेलवेली जिला अचंपादु राधापुरम तालुक	1. अचंपादु

[सं. एस-38013/08/2014-एस.एस.-1]
पवन कुमार, अवर सचिव

New Delhi, the 31st January, 2014

S.O. 808.— In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees, State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2014 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI (except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Tamil Nadu namely :—

Centre	Area Comprising the Revenue Villages of
Achampadu area Radhapuram Taluk, Tirunelveli District	1. Achampadu

[No. S-38013/08/2014-S.S.-I]
PAWAN KUMAR, Under Secy.

नई दिल्ली, 31 जनवरी, 2014

का०आ० 809.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 मार्च, 2014 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी हैं) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी हैं] के उपबंध तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

केन्द्र	क्षेत्र के अंतर्गत आने वाले निम्न राजस्व गाँव
तिरुनेलवेली जिला चेरन्कोविल्पत्थु अम्बासमुद्रम तालुक	1. चेरन्कोविल्पत्थु

[सं० एस-38013/07/2014-एस०एस०-1]

पवन कुमार, अवर सचिव

New Delhi, the 31st January, 2014

S.O. 809.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2014 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Tamil Nadu namely :—

Centre	Area Comprising the Revenue Villages of
Cherankoilpatthu Ambasamudram Taluk, Tirunelveli District	1. Cherankoilpatthu

[No. S-38013/07/2014-S.S.-I]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 31 जनवरी, 2014

का०आ० 810.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 मार्च, 2014 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी हैं) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी हैं] के उपबंध हिमाचल प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

क्रम सं०	राजस्व ग्राम का नाम/क्षेत्र	हदबस्त संख्या/होबली	तहसील/तालुक	जिला
1.	दाड़ लाघाट	179	अर्की	सोलन
2.	बग्गा	190	अर्की	सोलन
3.	बटेड़	191	अर्की	सोलन
4.	सुहली	196	अर्की	सोलन
5.	दवारू	198	अर्की	सोलन
6.	रवाता	199	अर्की	सोलन
7.	रोड़ी	200	अर्की	सोलन

[सं० एस-38013/06/2014-एस०एस०-1]

पवन कुमार, अवर सचिव

New Delhi, the 31st January, 2014

S.O. 810.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2014 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Himachal Pradesh namely :—

Sl. No.	Name of the villages/Area	Had Bast No. Hobli	Tehsil/Taluk	District
1.	Darlaghat	179	Arki	Solan
2.	Bagga	190	Arki	Solan
3.	Bated	191	Arki	Solan
4.	Suhli	196	Arki	Solan
5.	Dawaru	198	Arki	Solan
6.	Rwata	199	Arki	Solan
7.	Rori	200	Arki	Solan

[No. S-38013/06/2014-S.S.-I]
PAWAN KUMAR, Under Secy.

नई दिल्ली, 31 जनवरी, 2014

का०आ० 811.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 मार्च, 2014 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 का उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध हिमाचल प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

क्रम सं०	राजस्व ग्राम का नाम/क्षेत्र	हदबस्त संख्या/होबली	तहसील/तालुक	जिला
1.	नंगल खुर्द	471	हरोली	उना
2.	टाहलीवाल	472	हरोली	उना
3.	बाथू	475	हरोली	उना
4.	श्यामपुरा	528	हरोली	उना
5.	गोंडपुर बुला	529	हरोली	उना
6.	गोंडपुर जयचंड	530	हरोली	उना
7.	सींगा	531	हरोली	उना
8.	देवली	136	अम्ब	उना
9.	जीतपुर बहेड़ी	137	अम्ब	उना
10.	शिवपुर	138	अम्ब	उना
11.	टटेरा	160	अम्ब	उना
12.	जलग्राम टिब्बा	211	उना	उना
13.	बैहडाला	459	उना	उना

[सं० एस-38013/05/2014-एस०एस०-1]

पवन कुमार, अवर सचिव

New Delhi, the 31st January, 2014

S.O. 811.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2014 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Himachal Pradesh namely:—

Sl. No.	Name of the villages/Area*	Had Bast No. Hobli*	Tehsil/Taluk*	District
1.	Nangal Khurd	471	Haroli	Una
2.	Tahliwal	472	Haroli	Una
3.	Bathu	475	Haroli	Una
4.	Shyam Pura	528	Haroli	Una
5.	Gondpur Bulla	529	Haroli	Una
6.	Gondpur Jaichand	530	Haroli	Una
7.	Singan	531	Haroli	Una
8.	Deoli	136	Amb	Una
9.	Jeetpur Baheri	137	Amb	Una
10.	Shivpur	138	Amb	Una
11.	Tatera	160	Amb	Una
12.	Jalgram Tibba	211	Una	Una
13.	Behdala	459	Una	Una

[No. S-38013/05/2014-S.S.-I]
PAWAN KUMAR, Under Secy.

नई दिल्ली, 31 जनवरी, 2014

का०आ० 812.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 मार्च, 2014 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 वत 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध हिमाचल प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:—

क्रम सं०	राजस्व ग्राम का नाम/क्षेत्र	हदबस्त संख्या/होबली	तहसील/तालुक	जिला
1.	महाल संसारपुर	01	जसवां	कांगडा
2.	महाल रोड़ी	07	जसवां	कांगडा

[सं० एस-38013/04/2014-एस०एस०-1]
पवन कुमार, अवर सचिव

New Delhi, the 31st January, 2014

S.O. 812.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2014 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-

Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Himachal Pradesh namely:—

Sl. No.	Name of the villages/Area	Had Bast No.Hobli	Tehsil/Taluk	District
1.	Mahaal Sansarpur	01	Jaswan	Kangra
2	Mahaal Rori	07	Jaswan	Kangra

[No. S-38013/04/2014-S.S.-I]
PAWAN KUMAR, Under Secy.

नई दिल्ली, 11 फरवरी, 2014

का०आ० 813.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 फरवरी, 2014 को उस तारीख के रूप में नियत करती है, जिनको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उपधारा-(1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध छत्तीसगढ़ राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:—

“तहसील कटघोरा जिला कोरबा में राजस्व ग्राम- डेलवाडीह, ढपढप, कसरेगा, जेंजरा, हुंकरा, धवंईपुर, डुडगा, कटघोरा, महेशपुर, नवागांव, छुरीकला, सलोरा, बिसुनपुर, धनरास, घमोटा, छुरीखुर्द, गांगपुर, झोरा, धौरापाठ, नवागांवकला, झाबू, मडवामौहा, पुरैनाखार, लोटलोता, स्याहीमुडी, जेल, गोपालपुर, डुमरमुड़ा, बरेड़ीमुड़ा, चोरभट्टी, पंडरीपानी, डोडकधरी, बनचर, जटांगपुर, बिरवट, डिंडोलभाठा और छिरहुट के अन्तर्गत आने वाले क्षेत्र।”

[सं० एस-38013/02/2014-एस०एस०-1]
पवन कुमार, अवर सचिव

New Delhi, the 11th February, 2014

S.O. 813.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employee's State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st February, 2014 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI (except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Chhattisgarh namely:

"Area falling within the revenue villages of Dhelwadiah, Dhaphdhap, Kasrega, Jenjara, Hunkara, Dhanwaipur, Dudga, Katghora, Maheshpur, Nawagaon, Chhurikala, Salora, Bisunpur, Dhanras, Ghamota, Chhurikhurd, Gangpur, Jhora, Dhavrapath, Newagaonkala, Jhabu, Madwamauha, Purainakhar, Lotlota, Syahimudi, Jail, Gopalpur, Dumarmuda, Baredimuda, Chorbhatti, Pandripani, Dodakdhari, Banchar, Jatangpur, Birwat, Dindolbhata and Chhirhut in Tehsil-Katghora, Dist.-Korba."

[No. S-38013/02/2014-S.S.-I]
PAWAN KUMAR, Under Secy.

नई दिल्ली, 11 फरवरी, 2014

का०आ० 814.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मार्च, 2014 को उस तारीख के रूप में नियत करती है, जिनको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उपधारा-(1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:—

केन्द्र	क्षेत्र के अंतर्गत आने वाले निम्न राजस्व गांव
तिरुनेलवेली जिला में नांगुनेरी तालुक के विजयनारायणम-III	1. विजयनारायणम-III (संगनाकुलम गांव)

[सं० एस-38013/12/2014/एस०एस०-1]
पवन कुमार, अवर सचिव

New Delhi, the 11th February, 2014

S.O. 814.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employee's State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2014 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Tamil Nadu namely:—

Centre	Area Comprising the Revenue Villages of
Vijayanarayanam-III Nanguneri Taluk, Tirunelveli District	1. Vijayanarayanam-III (Sanganankulam Village)

[No. S-38013/12/2014-S.S.-I]
PAWAN KUMAR, Under Secy.

नई दिल्ली, 11 फरवरी, 2014

का०आ० 815.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 मार्च, 2014 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध पश्चिम बंगाल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:—

क्रम सं०	राजस्व क्षेत्र/मौजा के नाम	जे० एल० संख्या	नगरपालिका/ग्राम पंचायत के नाम	जिला
1.	श्रीमंतपूर	36	बेवा I एवं II ग्राम पंचायत	मुर्शिदाबाद
2.	बीर केंदुआ	28	बेवा II ग्राम पंचायत	मुर्शिदाबाद
3.	पुराना चंडीपूर	37	बेवा II ग्राम पंचायत	मुर्शिदाबाद
4.	चंडीपूर	39	बेवा II ग्राम पंचायत	मुर्शिदाबाद
5.	केंदुआ	26	बेनियाग्राम ग्राम पंचायत	मुर्शिदाबाद
6.	अंधुआ	40	बेनियाग्राम ग्राम पंचायत	मुर्शिदाबाद
7.	बेनियाग्राम	55	बेनियाग्राम ग्राम पंचायत	मुर्शिदाबाद

[सं० एस-38013/11/2014-एस० एस०-1]
पवन कुमार, अवर सचिव

New Delhi, the 11th February, 2014

S.O. 815.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2014 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of West Bengal namely:—

Sl. No.	Name of Revenue Area/Mouza	J. L. No.	Name of Municipality/ Gram Panchayat	District
1.	Srimantapur	36	Bewa I & II Gram Panchayat	Murshidabad
2.	Bir Kendua	28	Bewa II Gram Panchayat	Murshidabad
3.	Purana Chandipur	37	Bewa II Gram Panchayat	Murshidabad
4.	Chandipur	39	Bewa II Gram Panchayat	Murshidabad
5.	Kendua	26	Beniagram G.P.	Murshidabad
6.	Andhua	40	Beniagram G.P.	Murshidabad
7.	Beniagram	55	Beniagram G.P.	Murshidabad

[No. S-38013/11/2014-S.S.-I]
PAWAN KUMAR, Under Secy.

नई दिल्ली, 13 फरवरी, 2014

का०आ० 816.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ए०एस०आई० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, नई दिल्ली के पंचाट (संदर्भ संख्या 60/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2014 को प्राप्त हुआ था।

[सं० एल-42012/211/2001-आईआर(सीएम-II)]
बी०एम० पटनायक, डेस्क अधिकारी

New Delhi, the 13th February, 2014

S.O. 816.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 60/02 of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure, in the industrial dispute between the management of Archaeological Survey of India, and their workmen, received by the Central Government on 13/02/2014.

[No. L-42012/211/2001-IR(CM-II)]
B.M. PATNAIK, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-II, DELHI

PRESENT: Shri Harbansh Kumar Saxena

ID No. 60/02

Smt. Vimla Sahi

Versus

Archaeologist Survey of India

AWARD

The Central Government in the Ministry of Labour vide notification No. L-42012/211/2001-IR(CM-II) dated 26.07.2002 referred the following Industrial Dispute to this tribunal for the adjudication:

"Whether the action of the management of Archaeological Survey of India in not regularizing/ granting of temporary status to Smt. Vimla Sahi, Casual labour and continuing her on casual basis indefinitely is legal and justified? If not, to what relief she is entitled to?"

On 7-08-2002 reference in this tribunal. Which was register as I.D. No. 60/02 and claimant was called upon to file claim statement within fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant filed claim statement on 13.9.2004. Wherein she stated as follows:—

1. That *vide* order of Reference dated 26-07-2002 the industrial dispute raised by the workman has been referred for adjudication. The terms of reference read as under:

"Whether the action of the management of Archaeological Survey of India in not regularizing/ granting of temporary status of Smt. Vimla Sahi, Casual labour and continuing her on casual basis indefinitely is legal and justified? If not, to what relief she is entitled to?"

2. That the workman had been working as casual labour since 1989, though in the Award it is mentioned as 01.01.1991 with Management. However her services were terminated on 28.03.1992 in gross violation of Section 25-F. Hence the workman raised industrial dispute which resulted in reference order dated 07.12.1993. The term of reference was adjusted and an Award dated 06.01.1997 by this Hon'ble Tribunal holding that the workman worked continuously for more than 240 days and hence the termination was illegal. The Ld. Tribunal ordered for reinstatement and the workman was taken in the employment of the Management.

3. That *vide* letter/order dated 14.04.1998 the workman was directed to report for duty as casual labour by the Superintending Archaeologist and was asked to work at Humayun Tomb, Nizamuddin where she worked till March 2000. Thereafter, the workman was asked to work at Lal Kila (Red Fort) from since April 2000. She has been working at Red Fort since April 2000 and is still working there. The workman has continuously been working all these years and performing duties of regular and permanent nature, though she is labeled as 'Casual Labour'.

4. That the workman has been performing duties of grass cutting/removing which is a regular feature. Grass grows very fast and is to be cut/removed regularly. The male labours cut the grass with sword/machine who have been given Temporary status and the benefits thereon. Though she has put in more than 240 days of continuous service, she has not been even given temporary status which entitles the workman for higher benefits as are being given to others. In terms of memorandums/circulars regarding conferring Temporary status she is entitled to proper scale of pay and other service benefits.

5. That the workman is being paid wages at the rate of Rs. 107.00 per day and wages is paid monthly. No other benefit such as PF, ESI, leave facilities, etc. given to the workman, though same are admissible to regular employees. However, the workman has been paid bonus of Rs. 1184.00 for the years, 2002 and 2003. If leave is taken, the wage for that day is deducted. Wage for Sunday is not paid at all. In spite of regular nature of work and working regularly, the workman is entitled to paid week off. But wage is not paid

for the weekly off day of Sunday. This is unfair labour practice. The workman is to work from 9 a.m. to 5 p.m. daily with lunch break of one hour between 1 and 2 p.m. the workman is shown on Muster Roll and signature is obtained on the muster Roll and Register for making payment of wages. Attendance is signed by the workman.

6. That the workman has been requesting the Management to regularize and made her permanent employee and pay regular scale and other service benefits. But the management has not heeded to. Even Temporary status is not given to the workman. The workman is entitled to be permanency of job, proper scale and allowances and other benefits, as she has been working all these years.

7. That the action of the management in continuously extracting permanent and regular jobs and not making her permanent employee and thereby depriving her of proper pay scale and other service benefit. Hence the action of the management would amount to unfair labour practice. The management is exploiting the weak bargaining power of the workman and continuing her as casual all these years. Not only it would amount to unfair labour practice but also would amount to forced labour. Continuous employment itself indicates permanent requirement and regular/perennial nature of job of grass cutting being done by the workman. It is also indicative of existence of permanent vacancy.

It is therefore prayed to Hon'ble Tribunal that it may pleased to pass Award holding that the workman Smt. Vimla Sahi is entitled to regularization and regular pay scales and other service benefits from the date of completion of 240 days of service as she has been continuously working with the Archaeological Survey of India or at least entitled to Temporary status and benefits attached to conferment of temporary status in terms of the Memorandum governing Temporary Status. All consequential benefits of regularization/temporary status also be awarded to the workman. Any other reliefs as may deemed necessary and proper may also be granted to the workman.

Against claim statement management filed following written statement on 11.4.2005:

1. That the reference in this matter is devoid of any merit and not maintainable as it is uncalled.

2. That the present application is liable to be dismissed as the Hon'ble Tribunal does not have the jurisdiction to try the present dispute as the same is not an Industrial dispute. Further, the claimant is not a worker as per the Industrial Act, and moreover, being a matter not related to Industrial dispute, the present claim requires to be dismissed.

3. That the claimant has concocted false story and has not come out with the true facts has concealed the material facts from this Hon'ble Tribunal as such the claim

is liable to be dismissed. In this matter the management is a Central Government Department under the Ministry of Culture, Government of India and has been declared as Scientific and Technological Institution by Government of India by notification No. 36016/2/89-Estt. dated 27th October, 1989 published in the Gazette of India. The Archaeological Survey of India is discharging its duties for the preservation and conversation of ancient and historical monuments and archaeological sites and remains which are declared to be of national importance under the Ancient Monuments and Archaeological sites and Remains Act, 1958, regulation of archaeological excavations, explorations, implementation of the Ancient monument and Archaeological Sites and Remains Act, 1958 and Rules 1959 and the Antiquities and Art Treasures Act, 1972, Rules, 1973, etc. are also being performed by the Archaeological Survey of India.

4. That the present claim is liable to dismissed as the Archaeological Survey of India is neither an industry nor industrial establishment nor industry undertaking so as to attract the provisions of I.D. Act. The Archaeological Survey of India is performing sovereign functions of the state as enshrined in the Constitution of India in looking after the centrally protected monuments of national importance spread over the entire length and breadth of the country. It is submitted that that the provisions of Industrial Dispute Act does not apply to its employees or the daily wages casuals engaged on Muster Rolls.

5. That the present claim is liable to be dismissed as the sanctioned staff/personnel are governed by CCS regulations and statutory instructions issued by the Department of Personnel Training. The said staff is classified as on-industrial posts. Besides the regular establishment, Archaeological Survey of India also engages daily wages casual labourers on need basis periodically for removal of vegetational growth and special repair works, etc. of purely casual/temporary nature and are carried out for short durations. The wages to such daily wages casual labourers are paid in accordance with the provisions of the Minimum Wages Act.

6. That the respondent has not violated any provision of the Industrial Dispute Act and every action of there is within the ambit of law and as such the claim is liable to be dismissed. Moreover, there is no sanctioned post which claimant is seeking.

7. That the workman was not validity appointed and regularizing her services would be a violation of rights given to other citizen under Articles 14 and 16(4) of Constitution of India.

Reply on Merits

1. It is submitted that Smt. Vimla Sahi is working in the Archaeological Survey of India as a daily waged casual labour or on Muster Roll. As the said casual labourers did

not fulfill the required conditions for grant of temporary status/regularization as per DoPT scheme of 10th September, 1993 she was not granted the temporary status.

2. That the contents of para No. 2 are wrong and denied. It is submitted that Smt. Vimla Sahi was not engaged in 1989 as claimed. She was, in fact, engaged on Muster Roll in September, 1990 but did not complete 240 days in a year. As referred to herein she is continuously working as a casual daily wages labourer on Muster Roll since 1998.

3. It is submitted that Smt. Vimla Sahi is working as a casual labourer temporary nature of work against sanctioned estimate as and when required basis.

4. In reply to the contents of para No. 4, it is submitted that the said labourer is working as a casual labourer and has been paid wages as per the Minimum Wages Act. Since Smt. Vimla Sahi, does not fulfill the conditions of DoPT Scheme of 1993, she is not entitled for Temporary status benefit. The said fact has already been communicated through the Asstt. Labour Commissioner also.

5. That the contents of para No. 5 are denied. It is submitted that the ASI is neither an industry nor industrial establishment nor industrial undertaking so as to attract the provisions of I.D. Act, as ASI is performing sovereign functions of the state as enshrined in the Constitution of India in looking after the centrally protected monuments of national important spread over the entire length and breadth of the country (copy enclosed as Annexure-A). As such the provisions of I.D. Act does not apply to the employees or the daily wages casual labourers engaged on Muster Roll by the Archaeological Survey of India. It is further submitted that there is no scheme of ESI in ASI, which may be applicable to the casual labourers. Weekly off and bonus is given to the casual labourers as per the relevant rules. The minimum wages are paid as prescribed by the competent authority. As far as ESI is concerned the ASI is a Central Government Department and not an industry as alleged, hence the Archaeological Survey of India is not governed by any ESI Scheme and I.D. Act.

6-7. That the contents of para Nos. 6 and 7 are wrong and hence denied. It is submitted that Smt. Vimla Sahi is misleading the Hon'ble Court by submitting false statements. She is working as casual labourer and is being paid Rs. 110.10 per day as per minimum wages Act. It is submitted that she does not fulfill the conditions of OM: 51016/2/90(C), dated 10th September, 1993 for granting her temporary status as alleged. It is submitted that her case for regularization will be considered as per the recruitment rules.

REJOINDER

1. That the contents of para 1 WS are wrong and denied. The claim is based on legal right.

2. That the contents of para 2 WS are wrong and denied. The dispute raised and referred is an industrial

dispute. This Tribunal has jurisdiction to adjudicate the same. The workman is a workman as defined under section 2(s) of I.D. Act.

3. That the contents of para 3 WS are wrong and denied. The contents of Claim are correct and are reiterated. The management is an industry and is reiterated. The Management is an industry and is governed by the provisions of I.D. Act. Hence the allegations as made are misconceived.

4. That the contents of para 4 WS wrong and denied being misconceived. The Management *i.e.* Archaeological Survey of India, is an 'industry'. It is wrong and denied that in performs sovereign functions. It is rendering service to society. The employees are employed are employed to do maintenance job like cleaning, grass cutting, etc. Visitors/tourists do visits the places and they are charged entry fees. The employees employed including the workman are workman under I.D. Act.

5. That the contents of para 5 of WS are wrong and denied. The workman is a workman and is entitled to the protection under I.D. Act. Applicability CCS & other Rules are matters of arguments. The vital issue is that the workman is governed by I.D. Act. The action of Management in continuing the workman as temporary/casual for year together is unfair labour practice. The workman has been performing regular and permanent nature of duties.

6 & 7. That the contents of paras 6 & 7 WS are wrong and denied. Keeping the workman as casual/temporary continuously by and not extending service condition as applicable to regular employees; and not regularizing her services are unfair labour practice. Only to avoid and evade the legal rights accrued to the workman, the Management is deliberately not regularized her and given all service benefits. The allegation that regularization of workman would violate Art. 14 & 16(4) of the constitution of India is misconceived and hence it is wrong and denied.

REGOINDER PARAWISE:

1. That the content of para 1 of WS are wrong and denied except to the extent of admission. The workman is entitled to temporary status. The contents of para 1 of claim of reiterated.

2. That the contents of para 2 WS are wrong and denied. Contents of para of 2 of claim are reiterated and reaffirmed. The workman has been working since 1989. It is wrong & denied that she has not put in continuous services of more than 240 days prior to 1998. The Management admitted that she is continuously working on Mustey Roll as casual 1998.

3. That the contents of para 3 WS as stated are wrong and denied. Contents of para 3 of claim are reiterated and reaffirmed. The work performed are regular and perennial nature and are continuously done all these years.

4. That the contents of para 4 WS as stated are wrong and denied. Contents of para 4 claim are reiterated. She is being paid Rs. 107/- per day and no other benefits are given. She is entitled to the benefits of Temporary Status also.

5. That the contents of para 5 WS are wrong and denied. Contents of para 5 of claim are reiterated and reaffirmed. The Management is an industry and is covered under the provisions of I.D. Act, 1947. It discharges no sovereign functions. It can not justify its illegal, unfair actions and commission of unfair labour practice. The allegation as made are misconceived and are wrong and denied.

6. That the contents of paras 6 & 7 WS are wrong and denied. Contents of paras 6 & 7 of claim are reiterated and reaffirmed. She is paid Rs. 107/- per day and the Wages are paid monthly. It is wrong and denied that she does not fulfill the criteria for conferring temporary status. Many similarly situated employees, in fact juniors, have been the beneficiaries of Temporary status and also regularized in service. The long and continuous services rendered itself indicative of existence of vacancy and the work being performed by her are permanent and regular nature. Hence Right to regularization of services has accrued to her.

It is therefore prayed to the Hon'ble Tribunal that it may please to pass Award as prayed in claim.

On the basis of pleadings of parties following issues has been framed by my Ld. Predecessor on 31.05.06:—

1. Whether there exist an Industrial Dispute between the parties & OPW

2. As in terms of Reference?

3. Relief.

Vimla Sahi in support of her case filed her affidavit on 15.7.2006 are as follow:—

1. That the workman had been working as casual labour since 1989, though in the Award it is mentioned as 01.01.1991 with Management. My services were terminated on 28.03.1992 in gross violation of section 25-F. I raised industrial dispute which resulted in reference order dated 07.12.1993. The term of reference was adjudicated and an Award dated 06.01.1997 by Hon'ble Court holding that the deponent worked continuously for more than 240 days and hence the termination was illegal. The LD. Tribunal ordered for reinstatement and the workman was taken in the employment of the Management. The Award dated 6.1.1997 is Exhibit WW1/1.

2. That vide letter/order dated 14.04.1998 the deponent was directed to report for duty as casual labour.

By the superintending Archaeologist and was asked to work at Humayun Tomb. Nizamuddin where I worked till

March 2000. Thereafter, I was asked to work at Lal Kila (Red Fort) from April 2000. I have been working at Red fort since April 2000 and is still working there. I have been continuously working all these years and performing duties of regular and permanent nature, though I have been labeled as 'Casual Labour'.

3. That I have been performing duties of grass cutting/removing which is a regular feature. Grass grows very fast and is to be Cut/removed regularly. The male labours have been given Temporary Status and the benefits here on. Though I have put in more than 240 days of continuous service, I have not been even given temporary status which entitles the workman for higher benefits as are being given to others. In terms of memorandums/circulars regarding conferring Temporary status I am entitled to proper scale of pay and other service benefits.

4. That the deponent is being paid wages at the rate of Rs. 107.00 per day and wages is paid monthly. No other benefit such as PF, ESI, leave facilities, etc given to the workman, though same are admissible to regular employees. However, the deponent has been paid bonus of Rs. 1184.00 for the years, 2002 and 2003. If leave is taken, the wage for that day is deducted. Wage for Sunday is not paid at all. In spite of regular nature of work and working regularly, the deponent is entitled to paid weekly off. But wage is not paid for the weekly off day of Sunday. The deponent is to work from 9 to 5 pm daily with lunch break of one hour between 1 and 2. The deponent is shown on Muster Roll and signature is obtained on the muster Roll and signature for making payment of wages. Attendance is signed by the deponent-workman.

5. That the workman has been requesting the Management to regularize and make her permanent employees and pay regular scale and other service benefits. But the Management has not needed to. Even Temporary Status is not given to the workman. The deponent is entitled to permanency of job, proper scale and allowances and other benefits, as she has been working all these years.

6. That the action of the Management in continuously extracting permanent and regular jobs and not making me permanent employee and thereby depriving me of proper pay scale and other service benefit. Continuous employment itself indicates permanent requirement and regular/perennial nature of job of grass cutting being done by the workman. It is also indicative of existence of permanent vacancy.

7. That I am entitled to regularization and regular pay scales and other service benefits from the stated of completion of 240 days of service or at least entitled to Temporary Status in terms of the memorandums governing temporary status and the benefits of such temporary status.

8. That the documents filed by the deponent workman are certificate dated 08.05.2002; Letter dated 14.4.1998;

Wages list of Govt. of NCT; Letter dated 28.8.2000 of the deponent; OM dated 12.04.2002 for grant of temporary status:

Letter dated Nil of the Association, as per list of documents dated 18.04.2006 be taken as Exhibits WW1/2 to WW1/7 respectively.

He was Cross examined by A/R for the management on 5.2.07 Her cross-examination is as follow:—

At present I do not possess any document/paper to show that I have been working with the management on 10.09.93 I have already filed or placed on record all documents or proof on the court file to show that I have worked for more than 240 days before 10.09.93. It is incorrect to suggest that I have not worked for 240 days in any year preceding/before 10.9.93. It is incorrect to suggest that I am not entitled to grant to temporary status as per DOPT Scheme. It is incorrect to suggest that I am not entitled to the relief claimed.

In support of its case management filed affidavit of Shri Chandidas Mishra which having following contents:—

1. That the deponent is the Security Officer of Archaeological Survey of India Delhi Circle, in the above noted matter and hence fully aware with the facts and circumstances of the present matter and competent to swear this affidavit.

2. That the management is a Central Government Department under the Ministry of Culture, Govt. of India and has been declared as scientific and Technological Institution by Govt. of India by notification No. 36016/2/89-East dated 27.10.1989 published in the Gazette of India which is exhibited as MW-1/1. The ASI is discharging its duties for the preservation and conservation of ancient and historical documents and archaeological sites and remains which are declared to be of national importance under the ancient Monuments and Archaeological Sites and Remains Act, 1958, regulations, implementation of the Ancient Monuments and Archaeological sites and Remains Act, 1958 an rules 1959 and the Antiquities and Art Treasures Act, 1972, Rules 1973 etc. are also being performed by the Archaeological Survey of India.

3. That the ASI is neither an industry nor industrial establishment undertaking so as to attract the provisions of ID Act. The archaeological Survey of India is performing sovereign functions of the state as enshrined in the constitution of India in looking after the centrally protected monuments of national importance spread over the entire length and breadth of the country. It is submitted that the provisions of Industrial Dispute Act does not apply to its employees or the daily wages casuals engaged on Muster Rolls.

4. That the sanctioned staff/personnel are governed by CCS regulations and statutory instructions issued by

the Department of Personal and Training. The said staff is not classified as on industrial posts. Besides the regular establishment, Archaeological Survey of India also engages daily wages casual labourers on need basis periodically for removal of vegetation growth and special repair works, etc. of purely casual/temporary nature and are carried out for short durations. The wages to such daily wages casual labourers are paid in accordance with the provisions of the Minimum Wages Act.

5. That the management has not violated any provision of the industrial Dispute Act and every action of there is within the ambit of law and as such the claim is liable to be dismissed. Moreover, there is no sanctioned post which claimant is seeking.

6. That the workman was not validly appointed and regularizing her services would be a violation of rights given to other citizen under Article 14 and 16 (4) constitution of India.

7. That Smt. Vimla Sahi was not engaged in 1989 as claimed. She was in fact engaged on Muster Roll in September 1990 but did not complete 240 days in a year. As referred to herein she is sporadically working as a casual daily wages labourers is on Muster Roll since 1989. Said labourer is working as a casual labourers and has been paid wages as per the Minimum wages Act. Since Smt. Vimla Sahi does not fulfill the conditions of DOPT Scheme of 1993, she is not entitled for temporary status benefit so present claim of workman is liable to be dismissed.

His affidavit was tendered on 24.01.2012. He was Cross examined on the same day. His cross-examination is as follow:—

I was not taking work from the workman in the year 1989. The attendance register is in possession of the office of the management though not in my personal possession. The workman being a casual labour, his attendance is marked on the muster rolls and not on the register. The muster roll must be in the office if it is preserved till today as per rules. The workman was doing the Beldari job such as grass cutting, cleaning, sweeping etc. I am not able to tell the exact number of casual labours employed in the management but their figure keep on changing according to the requirement of the management. Earlier, casual labours used to be called as casual labourers but since 1993 after the grant of temporary status to them they are Called temporary status casual labour. I have seen the memorandum dated 10.09.1993 of the Govt. of India, Ministry of Personnel PG and Pension Department which is Ex. MW/W1. The same is correct and has been adopted by our department. We are acting in accordance with this Ex MW1/1 wherever the same is applicable. We do not dispute document Ex. WW1/1.

Q. I put it to you that workman Smt. Vimla Sahi has not been dealt with in accordance with Ex. MW1/W1 and

she has not been granted the temporary status to which she was entitled as per this document.

A. It is incorrect that workman Smt. Vimla Sahi was entitled to temporary status in accordance with document Ex. MW1/W1. In fact, Smt. Vimla Sahi had not worked for 240 days in the year 1992-93 and so she was not entitled to the grant of temporary status.

I do not dispute the notification along with the award dated 06.01.1997 of Sh. Ganpati Sharma, PO with the said notification Ex. MW1/W2. It is incorrect to suggest that the workman case was covered with award Ex. MW1/W2. In fact, her case is not covered by this award. As in the award it is mentioned that she was employed prior to march, 1992 and the order of the Govt. of India pertain to such casual workers who were in the employment in the year 1992-93. It is wrong to suggest that the job of the management for maintenance etc. is not of sovereign function. It is wrong to suggest that I have deposed falsely.

Workman Argument on Behalf of workman is as follows:—

1. That the Ministry of Labour vide its order No. L-42012/221/2001-IR(CM-II) dated 26.7.2002 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Archaeological Survey of India is not regularizing/ granting of temporary status to Smt. Vimla Sahi, Casual labour and continuing her on casual basis indefinitely is legal and justified? If not, to what relief she is entitled to?"

2. That as per the workman's affidavit for evidence WW1/A, it is proved that Smt Vimla Shai was initially employed since 1989, though in the award it is mentioned as w.e.f 1.1.1991 with the Management and as per the award of CGIT when the services of the workman were terminated w.e.f 28.3.1992 in violation of Section 25-F as per the award which is exhibit WW1/1 in the Award the date of her initial appointment is 1.1.1991 and the said Award is placed in the file of this Hon'ble Tribunal which proves that the workman was appointed casual worker at Archaeological Survey of India, Purana Quila, New Delhi on 1.11.1991 and as per the Award she was reinstated by the order of Sh. Ganpati Sharma, the then Presiding Officer vide award dated 6.1.1997 but without back wages which proves that she was on employment of the Management w.e.f 1.1.1991 till date including the date of termination. Copy of the said award was published in the Gazette of India on 1.2.1997 and the same is again annexed with this written statement for the perusal of this Hon'ble Tribunal.

3. That as per the policy of Govt. of India, Deptt. The Personnel & Training the workers working on the role of the management vide its Office Memorandum No. 51016 dated 10th September 1993 granted the temporary status

and regularization of casual worker. As per the said OM the workman completed one year service w.e.f 1.9.1992 on 1.9.93 so he/she is entitled grant of temporary status and regularization scheme. As per the award in I.D No. 88/94 dated 6.1.1997 the workman Smt Vimla Shai has to be treated on duty till her termination i.e. w.e.f 28.03.1992 till date and she is entitled grant of temporary status as her similar situated casual workers were granted temporary status being a Group 'D' employee so she is also at least entitled grant of temporary status w.e.f 1.9.1993 as she completed more than one year of service because she was employed as casual workers/daily-rated worker w.e.f 1.9.1991 continuously. Copy of the temporary status and employment of casual labour is already placed in the court record. Due to ineligibility in reading I am enclosing herewith Office memorandum No. 51016/90. Estt (C) dated 10th September 1993 for kind perusal of this Hon'ble Court. Copy of the documents filed as per list of documents dated 18.4.2006 are exhibit WW1/2 to WW1/7 respectively. According to the temporary status the workman is entitled Group 'D' pay scale as per the Appendix of the Office memorandum No. 51016/2/90-Estt (C) dated 10th September 1993 at SI. No. 5 which is as under:—

"Temporary status would entitle the casual labourers to the following benefits:—

(i) Wages at daily rates with references to minimum of the pay scale for a corresponding regular Group 'D' official including DA, HRA and CCA.

(ii) Benefits of increments at the same rate as applicable to a Group 'D' employee would be taken into account for calculating pro-rata wages for every one year of service subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 days week) in the year from the date of conferment of temporary status."

(iii) Leave entitlement will be on a pro-rata basis at the rate of one day for every 10 days of work, casual leave, maternity leave, to carry forward the leave at their credit on their regularization. They will not be entitled to the benefits of encashment of leave on termination of services for any reasons or on their quitting serving.

(iv) Maternity leave to lady casual labourer as admissible to regular Group 'D' employees will be allowed.

(v) 50% of the service rendered under Temporary Status would be counted for the purpose of retirement benefits after their regularization.

(vi) After rendering three year's continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group 'D' employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions

as are applicable to temporary Group 'D' employees, provided they furnish two sureties form permanent Govt. Servants of their Department.

(vii) Until they are regularized, they would be entitled to productivity Linked Bonus/Ad-hoc bonus only at the rates as applicable to casual labourers.

4. That the temporary status is also adopted by the Management of Suptd. Archaeologist, Archaeological Survey of India, New Delhi.

5. That as per the Policy of Govt. of India the workman is employed as per the Award w.e.f 1.1.1991 so she is entitled the temporary status w.e.f 1st September 1993 to the pay scale revised from time to time and all benefits as referred herein-above and the same is mentioned in the temporary status para 5 of group 'D' employees and all the benefits as mentioned in the office Memorandum of Deptt. Of Personnel dated 10th September 1993 till the services of Smt. Vimla Sahi will be regularized alongwith all other casual/ daily rated workers and from the date in accordance with the seniority.

6. That non-regularization of Smt. Vimla Shai is also unfair labour practice under Seciton 2(sa) of I.D Act 1947 as specified in item 10 of 5th Schedule provides as "10 to employee workman as "badlies," casual or temporaries and continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen. It is also submitted that indulgence by the Management in unfair labour practice provides penalty u/s 25 U of ID. Act. The said Section is reproduced as under:

"25U Penalty for committing unfair labour practices Any person who commits any unfair labour practice shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both."

In View of the above it is prayed to:—

- (a) Award temporary status under O.M. No. 51016/2/ 90—Estt. (C) dated 10.09.1993 of Ministry of Personnel, P.G. and Pensions, Deptt. of Personnel & Training, New Delhi to Smt. Vimla Shai w.e.f 1.09.1993 as Group 'D' employee with all consequential benefits.
- (b) Direct the Management to regularize the services of Smt. Vimla Shai as regular employee in the Group 'D' category to set aside the unfair labour practice adopted by the management.

Written argument on behalf of UOI (Management/ASI)

1. That the workman have not approached the Hon'ble tribunal with clean hands and suppressed material facts and thus the ID is liable to be dismissed on this ground only.

2. That the workman have miserably failed to prove her case could not bring evidence for proving her case.

3. That the Management is a central Government Department under the Ministry of Culture, Govt. of India and has been declared as scientific and Technological Institution by Govt. of India by notification No. 36016/2/ 89-East dated 27-10-1989 published in the Gazette of India which was exhibited as MW1/1. The ASI is discharging its duties for the preservation and conversation of ancient and historical monuments and archaeological sites and remains which are declared to be of national importance under the ancient Monument and Archaeological Sites and Remains Act, 1958, regulations, implementation of the Ancient Monument and Archaeological sites and Remain Act, 1958 and Rules 1959 and the Antiquities and Art Treasures Act, 1972, Rules 1973 etc. are also being performed by Archaeological Survey of India.

4. That the ASI is neither an Industry not industrial establishment undertaking so as to attract the provisions of ID Act. The Archaeological Survey of India is performing sovereign functions of the state as enshrined in the constitution of India in looking after the centrally protected monuments of national importance spread over the entire length and breath of the country. It is submitted that the provisions of industrial Dispute Act does not apply to its employee or the daily wages casuals engaged on Muster Rolls.

5. That the sanctioned staff/personnel are governed by c.c.s. regulations and statutory instructions issued by the Department of personal and training. The said staff is classified as on industrial posts. Besides the regular establishment, Archaeological Survey of India also engages daily wages casual labourers on need basis periodically for removal of vegetation growth and special repair works, etc. of purely casual/temporary nature and are carried out for short durations the wages to such daily wages casual labourers are paid in accordance with the provisions of the Minimum wages Act.

6. That the management has not violated any provision of the industrial Dispute Act and every action of there is within the ambit of law and as such the claim is liable to be dismissed. Moreover, there is no sanctioned post which claimant is seeking.

7. That the workwoman was not validity appointment and regularizing her services would be a violation of rights given to other citizen under Article 14 and 16(4) of Constitution of India.

8. That Smt. Vimla Sahi was not engaged in 1989 as claimed. She was in fact engaged on Muster Roll in September 1990 but did not complete 240 days in a year. As referred to herein she is continuously working as a casual daily wages labourers on Muster Roll since 1989. Said labourer is working as per the Minimum wages Act. Since

Smt. Vimla Sahi does not fulfill the conditions of DOPT Scheme of 1993, she is not entitled for temporary status benefit so present claim of workman is liable to be dismissed.

9. That the applicant/workwoman Smt. Vimla Sahi was not engaged as casual labour under the establishment of the respondent/ASI any time in 1988 as claimed by her. However, the applicant was engaged in the department for the first time in September 1990 for intermittent and periodic nature of works. The applicant had not completed 240 days of work in the year 1990.

10. That the workwoman was continued to be engaged in such periodic, sporadic and casual nature of works on as and when required basis under the establishment of the respondent/management only for the year 1990. She did no work in the year 1991 or thereafter.

11. That the workwoman resurfaced in 1994 and filed and ID. Case bearing ID. No. 28 of 1994 against the department against her alleged termination from work. The CGIT cum labour Court was pleased to grant her relief and accordingly. She was reengaged in the department in 1998. She is continuing to be so engaged in the department since 1998.

12. That the Scheme titled 'Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India 1993 lays down the following preconditions for grant of such temporary status:—

- a. The concerned casual labour should have been in the engagement of the department on 10.09.1993.
- b. The concerned casual labour should have completed at least 240 days of work (206 days in the establishment observing 5 days a week) in a year proceeding to 10.09.1993.
- c. The Hon'ble Supreme court has made it clear that this scheme is not an ongoing issued in Civil Appeals No. 3198, 3182, 3179, 3176-78, 3169 of 2002, SLP (civil) No. 2151/2000 has held the following:

"However, we make it clear that the Scheme of 01.09.1993 is not an ongoing scheme and the 'temporary status can be conferred on the casual labourers under the scheme only on fulfilling the conditions incorporated in clause 4 of the scheme namely they should have been casual labourers in employment as on the date of commencement of the scheme and they should have rendered continuous services at least on one year *i.e.* at least 240 days in a year or 206 days (in case of officers having 5 days a week). We also make it clear that those who have already been given temporary status on the assumption that it is an ongoing scheme shall not be stripped of the temporary status pursuant to our decision."

13. That the applicant Smt. Vimla Sahi does not fulfill any of the afore stated preconditions meaning thereby that she was not in the engagement of the department of the respondent/management on 10.09.1993 and she had not completed 240 days of work during the period from 10.9.1992 to 10.09.1993. Hence my temporary status could be granted to her. Accordingly, the case of the present applicant Smt. Vimla Sahi cannot be considered at this stage.

14. That the afore-stated scheme of 'Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Govt. of India 1993 is not a continuous scheme so as to make it applicable for all the years to come.

15. That since regularization is subsequent procedure after grant of temporary status, and since the applicant was not granted temporary status for the afore-stated reasons, hence the applicant cannot be granted temporary status at this stage, which would be against the extant Rules.

16. That in addition, it is stated that the department has Number of Temporary status casual labourers who are waiting to be regularized. Moreover, casual labourers senior to the applicant needed to be absorbed first before considering the case of the applicant and hence at this stage, the case of the applicant cannot be considered by the department of the Respondent/Management.

It is therefore, most respectfully prayed that the statement of claim of the applicant may please be dismissed in favour of the respondent/Management/ASI and against the workwoman/Claimant.

Any other relief which this Hon'ble CGIT. May deem fit and proper be also passed in favour Management/ASI.

In the light of contention and counter contentions I perused the pleadings contained in Claim/Statement, Written Statement, and Rejoinder as well as evidence and Written arguments of parties on record, settled law and relevant provision of concerned law.

- (a) Which shows that Workwoman Vimla Sahi is entitled for Award of temporary status under O.M. No. 51016/2/90-Estt.(C) dated 10.09.1993 of Ministry of Personnel, P.G. and Pensions, Deptt. of Personnel & Training, New Delhi to Smt. Vimla Shai *w.e.f.* 1.09.1993 as Group 'D' employee with all consequential benefits and therefore management is directed to regularized the services of Smt. Vimla Shai as regular employee in the Group 'D' category to set aside the unfair labour practice adopted by the management. Reference is liable to be decided in favour of workman and against management. Which is accordingly decided.

Award is accordingly passed.

Dated:—13/01/2014

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 13 फरवरी, 2014

का०आ० 817.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार नेशनल इन्शुरन्स कंपनी लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 36/2007) प्रकाशित करती है जो केन्द्रीय सरकार को 11/2/2014 को प्राप्त हुआ था।

[सं० एल-17012/2/2005-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 13th February, 2014

S.O. 817.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government Industrial Tribunal/Labour Court, Nagpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of National Insurance Company Limited and their workman, which was received by the Central Government on 11/2/2014.

[No. L-17012/2/2005-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE SHRI J.P. CHAND, PRESIDING OFFICER,

CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/36/2007

Date: 16.01.2014

Party No. 1 : The Divisional Manager,
National Insurance Co. Ltd.
Divisional Office, M.G. Rd,
In front of Open Theatre,
Taluka & Distt. Akola, Maharashtra.
: The Regional Manager,
National Insurance Co. Ltd.
Regional Office, Mangalam Arcade,
2nd Floor, North Bazar Road, Dharampeth
Extn. Nagpur.
: The General Manager,
National Insurance Co. Ltd.,
Royal Insurance Building, 3-Midilatan
Street, Kolkata, West Bengal.

Versus

Party No. 2 : Shri Gajanan S/o. Dombji Ingle,
R/o. Ramabai Chowk, Old City Akola,
Maharashtra.

AWARD

(Dated: 16th January, 2014)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of

Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government had referred the industrial dispute between the employers, in relation to the management of M/S National Insurance Company Ltd. and their workman, Shri Gajanan Dombji Ingle, for adjudication, to Mumbai-II as per letter No. L-17012/2/2005-IR(M) dated 13.02.2007, with the following schedule:—

"Whether the action of the management of National Insurance Co. Ltd. through the Divisional Manager, Akola is justified in orally terminating the employment of Shri Gajanan S/o. Sh. Dombji Ingle w.e.f. 07.09.2004? If not, then what is the relief the workman is entitled to?"

Subsequently, the case was transferred to this Tribunal for adjudication in accordance with law.

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, Shri Gajanan Dombji Ingle, ('the workman' in short), filed the statement of claim and the management of National Insurance Co. Ltd., (Party No. 1" in short) filed their written statement.

The case of the workman as presented in the statement of claim is that he is a member of Schedule Cast community and he has read up to 9th Standard and in 2001, there was requirement of "Safais Kamgar" by Party No. 1 and he made application for the said post and he was interviewed by the Divisional Manager, Akola and he was appointed as a Safai Kamgar orally w.e.f. 01.09.2001 on daily wages basis and he worked as such continuously without any break till 07.09.2004 and on 07.09.2004, his services were terminated orally by Party No.1, without following the procedure of law, as he demanded more salary as per the Minimum Wages Act and he had completed more than 240 days of work in each year and he was paid his wages regularly by party no. 1 on vouchers and Party No. 1 intentionally showed in their account regarding making payment of wages to unknown persons in the months of November, 2001, June, 2002, December, 2002, June, 2003, February, 2003 and March, 2004, even though, he had worked during those months and had received wages for the same and while terminating his services, neither one month's notice as required under law was served on him nor one month's pay in lieu of notice was given nor any retrenchment compensation was paid to him by party No. 1 as required under section 25-F of the Act and after his termination, Party No. 1 engaged new persons as Safai Kamgar, firstly Shri Nilesh Nage and then, Shri Vikas Skrhoo and from the said facts, it is clear that the work of Safai Kamgar was/is continuously in existence and his termination from services is illegal and he is entitled for reinstatement in service with continuity and fully back wages.

3. In the written statement, the Party No. 1 denying all the adverse allegations made in the statement of claim

has pleaded *inter-alia* that the workman was engaged on part time basis for cleaning of the office, as and when required and he was never appointed as a safai kamgar as alleged and the engagement of the workman was as a stop gap arrangement and he was not employed regularly and as such, the question of termination of his services w.e.f. 07.09.2004 does not arise and there was also no question of the workman completing of 240 days of work in the preceding 12 months of his alleged date of termination or during any prior period and the workman is not entitled to the protection of 25-F of the Act and the workman is not entitled to any relief.

4. In order to prove their respective claims, both the parties have led oral evidence, besides placing reliance on documentary evidence.

The workman has examined himself as a witness in support of his case. In his evidence on affidavit, the workman has reiterated the facts mentioned in the statement of claim. However, in his cross-examination, the workman has admitted that he had not filed the copy of application alleged to be submitted by him for the job of Safai Kamgar in 2001 and he was doing the sweeping work prior to the office hours and he was not performing any work from 11 AM to 5 PM and the documents, Exts. M-I, M-V, M-VI, M-VII, M-IX, M-X, M-XIII to M-XIX bears his signatures.

5. One Prakash Laxmanrao Tidke has been examined as a witness on behalf of the Party No. 1. The evidence of the witness for Party No. 1 is on affidavit. The witness for the Party No. 1 has reiterated the facts mentioned in the written statement, in his evidence. In his cross-examination, this witness has stated that the workman was engaged for cleaning and dusting of the office and he was working from 9 AM to 10 AM and nobody was supervising his work and the statement made by him in his affidavit that the workman did not work for 240 days in the previous 12 months prior to 07.09.2004 is based on the payment vouchers regarding payment of wages to the workman and the workman was being paid Rs. 20 per day as his wages. This witness has also stated that the statement given by the workman in paragraph 2 of the statement of claim matches the dates of engagement of the workman as mentioned on the back of the vouchers.

6. At the time of argument, it was submitted by the learned advocate for the workman that the workman had filed notice for production of documents and demanded the production of attendance register from 01.09.2001 to 07.09.2004 by Party No. 1 and on 07.02.2011, Party No. 1 produced copies of some vouchers, but did not produce the documents demanded by the workman, only to deprive the workman from his legal right and for that adverse interference has to be drawn against the Party No. 1 and the witness for Party No. 1 has admitted that the statement given by the workman in paragraph 2 of the statement of claim regarding the number of his working days matches

the dates of engagement of the workman as mentioned on the back of the vouchers and from the same, it is clear that the workman worked continuously from 01.09.2001 to 07.09.2004, without any break and he had completed more than 240 days of work every year and before the termination of the services of the workman, the mandatory provisions of section 25-F of the Act were not complied with and neither one month's notice nor one month's pay in lieu of the notice nor retrenchment compensation was paid to the workman and after the termination of the services of the workman, Party No. 1 in violation of section 25-H of the Act, engaged Shri Nilesh Negi and Shri Vikas Shahoo and it is clear that the work of Safai Kamgar was/is in existence and therefore, the termination of the services of the workman is illegal and he is entitled for reinstatement in service with continuity and full back wages. In support of the submissions, in the written notes of argument, the learned advocate for the workman though had mentioned the cases reported in 2012 (2) Mh. LJ-503 (SC) Devindar Singh Vs. Municipal Council, Sanour and 2010 (3) Mh. L.J-537 (SC) (Ramesh Kumar Vs. State of Haryana) and many others, he did not file the said judgments for perusal of the Tribunal.

7. Per contra, it was submitted by the learned advocate for the Party No. 1 that the workman was never appointed as a Safai Kamgar and he was engaged as a part time worker for cleaning of the office, as and when required and the workman did not work for 240 days in the preceding 12 calendar months of the alleged date of termination or at any time prior to the same and therefore, the provisions of section 25-F of the Act are not applicable to the case of the workman and the workman is not entitled to any relief.

8. It is the admitted case of the parties that the workman was engaged on daily wages to sweep and clean the office of Party No. 1. According to the workman, from 01.09.2001 to 07.09.2004, he worked continuously without any break and he had completed 240 days of service in each year and on 07.09.2004, he was terminated from services by Party No. 1 orally, without compliance of the mandatory provisions of section 25-F of the Act.

The case of Party No. 1 is that the workman was engaged on part time basis, as and when required as a stop gap arrangement and he was not employed regularly and the workman neither completed 240 days of work in the preceding 12 months of the alleged date of termination nor in any calendar year prior to the same, so he is not entitled to the protection under section 25-F of the Act.

It is well settled that in a case of this nature, where it is claimed by the workman that he had completed 240 days of work prior to his termination and there is a denial of such claim by the management, the workman has to prove that he had in fact worked for 240 days during a period of 12 cleandar months preceding the date with reference to which calculation has to be made.

So, keeping in view the settled principles as mentioned above, now, the case in hand is to be considered.

9. At this juncture, I think it proper to mention that the workman had file an application on 07.02.2011 for a direction to Party No. 1 to produce the documents relating to attendance and payment of salary to him and after hearing the parties, by order dated 08.11.2011, the Party No. 1 had been directed to produce the attendance register and payment vouchers for the period from 01.09.2001 to 07.09.2004. On 28.03.2012, Party No. 1 filed 12 (Nineteen) payment vouchers, but did not file the attendance register. A pursis was filed by the Party No. 1 stating that no such attendance register was maintained. The nineteen vouchers were admitted into evidence on admission and marked as Exts. M-I to M-XIX.

It is to be mentioned here that though the workman in the statement of claim has specifically pleaded that his attendance was being marked daily by the officers of Party No. 1, there was no specific denial of non-maintenance of such attendance register by party no. 1 in the written statement, In the say filed by Party No. 1 to the application of the workman for production of documents also, it was not mentioned that such attendance register was not being maintained. It is also found that even though the workman endorsed on the list of documents filed by Party No. 1 that all the vouchers were not produced, no objection was raised by Party No. 1 to such endorsement and it was never stated by Party No. 1 that there was no other voucher in their possession regarding payment of wages to the workman. So adverse inference has to be drawn against the Party No. 1 for non-production of the relevant documents relating to the engagement of the workman in their office.

10. From the oral evidence of the workman, the documents Exts. M-I to M-XIX, the admission of the witness for the Party No. 1 about the correctness of the statement given by the workman regarding the working days and due to non production of the relevant documents by Party No. 1, it is found that the workman has been able to prove that he worked for 240 days in the preceding 12 calendar months of the date of his termination *i.e.* 07.09.2004.

11. Now, the question remains for consideration is as to what relief or reliefs the workman is entitled.

As per the submission of the learned advocate for the workman, the workman is entitled for reinstatement in service with continuity and full back wages.

On the other hand, the learned advocate for the Party No. 1 submitted that in this case, the workman is not entitled to any relief and the provisions of Section 25-F of the Act are not applicable.

12. At this juncture, I think it proper to mention about the latest decision of the Hon'ble Apex Court in the decision reported in (2013) 5 SCC-136 (Asstt. Engineer, Rajasthan

Development Corporation Vs. Gitam Singh). The Hon'ble Apex Court in the above decision have been pleased to take into consideration a large number of decisions delivered by the Hon'ble Apex Court earlier, including the decisions reported in 2011 II CLR-461 (Devinder Singh Vs. Municipal Council, Sonaur, (2013) 3 SCC-192 (Harjinder Singh Vs. Punjab State Warehousing Corporation) and (2010) 9 SCC-126 (Incharge Officer Vs. Shankar Setty.) have been pleased to hold that:—

"In our view, Harjinder Singh and Devinder Singh do not lay down the proposition that in all cases of wrongful termination, reinstatement must follows. This court found in those cases that judicial discretion exercised by the labour court was disturbed by the High Court on wrong assumption that the initial employment of the employee was illegal. As noted above, with regard to the wrongful termination of a daily wager, who had worked for a short period, this court in long line of cases has held that the award of reinstatement cannot be said to be proper relief and rather award of compensation in such cases would be in consonance with the demand of justice. Before exercising its judicial discretion, the labour court has to keep in view all relevant factors, including the mode and manner of appointment, nature of appointment, length of service, the ground on which the dispute before grant of relief in an industrial dispute.

In the light of the principles enunciated by the Hon'ble Apex Court as mentioned above, now, the present case in hand is to be considered. In this case, it is admitted that the workman was engaged as a daily wager on 10.01.2001. It is also found that he continued as such till 07.09.2004, when he was terminated from services by Party No. 1. In a case such as the present one, it appears that the relief of reinstatement cannot be justified and instead monetary compensation would meet the ends of justice. Taking into consideration the facts and circumstance of the case, in my considered opinion, the compensation of Rs. 30,000 (Rupees Seventy Five thousand only) in lieu of reinstatement shall be appropriate, just and equitable. Hence, it is ordered:—

ORDER

The action of the management of National Insurance Co. Ltd. through the Divisional Manager, Akola is unjustified in orally terminating the employment of Shri Gajanan S/o Sh. Dombji Ingle w.e.f. 07.09.2004. The workman is entitled for monetary compensation of Rs. 30,000 (Repees thirty thousand only) in lieu of reinstatement. He is not entitled for any other relief. The Party No. 1 is directed to pay the monetary compensation of Rs. 30,000 to the workman Shri Gajanan Dombji Ingle within 30 days of the publication of the award in the official gazette failing which, the amount will carry interest at the rate of 6 per cent per annum.

J.P. CHAND, Presiding Officer

नई दिल्ली, 13 फरवरी, 2014

का०आ० 818.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आयल इंडिया लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ संख्या 18/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/2/2014 को प्राप्त हुआ था।

[सं० एल०-30011/40/2011-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 13th February, 2014

S.O. 818.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 18/2012) of the Central Government Industrial Tribunal/Labour Court, Guwahati now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oil India Limited and their workman, which was received by the Central Government on 11/2/2014.

[No. L-30011/40/2011-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

Present : Shri L. C. Dey, M.A., LL.B., Presiding Officer

CGIT-cum-Labour Court, Guwahati

Ref. Case No. 18 of 2012

In the matter of an Industrial Dispute between :—

The Management of Oil India Ltd., Guwahati

Vrs.

Their workmen rep. by the President/General Secretary, Oil India Limited, Pipeline Transport Supplier Association, Narangi, Guwahati and the President/General Secretary, Motor Workers Union, Duliajan.

APPEARANCES :

For the Workman. : Mr. K.M. Haloi, Advocate

For the Management. : Sri S.N. Sarma, Sr. Advocate
Sri A. Sarma, Advocate,
Sri A. Jahid, Advocate.

Date of Award: 8.10.2013

AWARD

1. This Reference is arising out of an Industrial Dispute exists between the employers in relation to the

Management of M/s Oil India Ltd. and their workmen and union in respect of the notice of strike/agitational programme of Motor Workers Union dated 22.7.2011 served on the Management, which was referred to by the Ministry of Labour and Employment *vide* their Order No.-L-30011/40/2011-IR(M) Dated : 2/5/2012. The Schedule of the Reference is as under :

SCHEDULE

"Whether the notice of Strike/Agitational programme of Motor Workers Union dated 22.7.2011 served on the General Manager (PLS), Oil India Ltd., Guwahati demanding benefits of settlement dated 12.2.2009 between the Motor Workers Union, Duliajan and Duliajan Trade & Transport Contractors Association Duliajan, is legal and justified? What relief the workmen led by Motor Workers Union are entitled to?"

2. On receipt of the order of Reference from the Ministry of Labour and Employment, Government of India, New Delhi, this Reference Case was registered and notices were also issued upon both the parties with direction to file their Claim Statement/Written Statement and documents and to exchange their respective copies of Claim Statement/Written Statement and documents between them. Accordingly both the parties appeared and submitted their Claim Statement/Written Statement.

3. The case of the Motor Workers Union (herein after called the Union), in brief, is that the said Union has been espousing the cause of the Motor Workers and the members of this Union have been working as the Driver and helper engaged by the Contractors in different divisions of the Oil India Ltd. The Union entered into a settlement with the Management of Oil India Ltd. in the year 2004 and the benefit of the said settlement was provided to all the Motor Workers engaged by the contractor in different divisions of the Oil India Ltd. On 12.2.2009 the representatives of the Union, owner/employer (*i.e.* Duliajan Trade and Transport Contractors Association, Duliajan) and the Management of Oil India Ltd. arrived at a settlement before the Conciliation Officer and the Assistant Labour Commissioner (C), Dibrugarh under Industrial Dispute Act, 1947. The benefit of the settlement dated 12.2.2009 has been provided by the Management to all the motor workers engaged by the Contractors in Duliajan, Moran and Digboi but the motor workers engaged by the contractors in the Pipeline Division, Guwahati of the Oil India Ltd. had been deprived of the benefit of this settlement since the date of settlement till October, 2011 for which the Union in many occasions raised demand for implementation of the settlement in motor workers engaged by the contractors in the Pipeline Division, Guwahati. But the Management did not pay heed to the same till November, 2012. Hence, the Union finding no alternative served the strike notice dated 22.07.2011. The Union pleaded that the motor workers

engaged by the contractor in the Pipeline Division, Guwahati of Oil India Ltd., have been discharging the same and similar nature of jobs and they are working for same working hour as worked by the motor workers engaged by the contractors in various places under the Oil India Ltd. and as such, they are entitled to benefit of settlement dated 12.2.2009. It is also mentioned by the Union that after service of the strike notice dated 22.7.2011 the conciliation took place but it failed and after failure of the conciliation the Union resorted to strike on 14.9.2011. After resorting to the strike the Management of Oil India Ltd. provided the benefit of the settlement dated 12.2.2009 to the motor workers engaged by the contractors in the Pipeline Division at Guwahati of the Oil India Ltd. from the month of November, 2011 but the motor workers engaged by the contractor in the Pipeline Division at Guwahati of the Oil India Ltd. have not received their arrear salary up to the month of October, 2011 till date. Thus the implementation of settlement dated 12.2.2009 in the Pipeline Division, Guwahati Oil India Ltd. from the month of November, 2011 has established that the strike notice dated 22.7.2011 served upon the Management by the Union demanding the benefit of settlement dated 12.2.2009 is justified. Hence, the Union prayed for passing award directing the Management to provide the benefit of settlement arrived at between the representative of Motor Workers Union, owner/employer and the Management of Oil India Ltd.

4. The Management of Oil India Ltd., Guwahati stated that the notice dated 22.7.2011 issued by the Union to the Resident Chief Executive, Oil India Ltd., Duliajan wherein they have stated that earlier they have submitted charter of demand and served notice of strike and agitational programme which was however deferred by them at the advice of Assistant Labour Commissioner, Dibrugarh; and pointed out that they resumed their deferred programme of agitational strike. The Management mentioned that the Motor Workers Union, Guwahati Branch was formed recently on 14.9.2011 and the said Union demanded implementation of the settlement dated 12.2.2009 and they have served the notice on 01.11.2011 informing that if their demands are not fulfilled within 7 days they would start agitation. Further the settlement dated 12.2.2009 is a settlement for the Motor Workers engaged in the field at Duliajan and the same was not applicable in Pipeline Division as the said settlement was arrived at between the Motor Workers Union, Duliajan and Duliajan Trade and Transport Contractors Association, Duliajan and as such, the same is not binding upon the Transport Suppliers Association, Narengi, Guwahati. In that view of the matter, the Union at Pipeline can not issue strike/agitational programme demanding benefit of an agreement agreed by the Transport Contractors' Association of Duliajan. The Management pointed out that there being no demand ever submitted on 22.7.2011 to the Management, the issues referred to are absolutely not maintainable and are liable to

be rejected; and that the appropriate Government in referring the issue for adjudication, have not applied its mind and has referred a vague issue without there being any materials in the same.

Further plea of the Management is that after the demand of the Union for the year 2011 conciliation took place but it ended in failure and thereafter the matter was again discussed bilaterally and after much negotiation, the dispute has been settled up between the parties and after getting the Board approval the Driver and Helpers of the Union were given same and similar wages from the month of November, 2011. In this connection, The Secretary of the Union, Guwahati Branch who has raised the dispute, has written a letter dated 02.02.2012 to the Assistant Labour Commissioner (C) for withdrawal of the dispute and the Management also written a similar letter about the withdrawal of the dispute to the RLC (C). Even after this, the appropriate Government has referred this dispute to the adjudicated.

The Management denied all the averments made in the claim statement by the Union except those which are specifically admitted in their W.S. The Management denying the statements made in the Claim Statement in paragraphs-2 & 3, stated that the alleged settlement of 2004 was confined to the Drivers and Helpers engaged by the Contractors in Field *i.e.* in Duliajan, Moran and other parts of the field in Upper Assam Area and the same was not extended to the drivers and helpers of Pipeline Division. As regards averments made in paragraphs-5 & 6 of the claim statement of the Union the Management stated that the Union started raising demand for the benefits of the settlement dated 12.2.2009 in the month of September, 2011 and after discussion with the Guwahati Branch of the Union the Management directed the members of the Transport Suppliers Association, Narengi to give the same and similar benefits to drivers and helpers *w.e.f.* November, 2011, upon which the Union has withdrawn the dispute by their letter dated 2.2.2012. The Management has also denied that the contention of the Union made in Paragraphs-8 & 9 of their Claim Statement is also not correct. The Management added that conciliation took place in pursuance to the strike notice dated 14.9.2011 issued by the Guwahati Branch of the Union which was forwarded by the Management to the Assistant Labour Commissioner (C) and the dispute was settled between the parties subsequent to which the Union forwarded a letter dated 2.2.2012 for withdrawal of the dispute. Instead the dispute was referred by the appropriate Government. Hence, the Management prayed for disposal of the present order of Reference accordingly.

5. During the course of Hearing both the parties appeared along with their learned Advocate and verbally submitted that the dispute has been settled up amicably between the parties. The Union through their General Secretary, Motor Workers' Union, Head Office, Duliajan,

has submitted petition bearing No. 738/13 stating that the dispute has been settled up outside the Court and as such they are not willing to proceed with the case, and also prayed for passing necessary Award/Order.

6. Sri Bijoy Gogoi, General Secretary of Motor Workers Union, Head Office-Duliajan has been examined and discharged. In course of his deposition Sri Gogoi stated that consequent upon the resolution adopted by the Union in a meeting he is deposing on behalf of the Union. In his statement Mr. Gogoi mentioned that their Union raised the present dispute claiming benefit of settlement arrived at on 12.2.09 among the representative of Motor Workers' Union, Owner/Employer *i.e.* Duliajan Trade and Transport Contractors Association and the Management of the Oil India Limited before the Conciliation Officer and the Assistant Labour Commissioner (C), Dibrugarh under I.D. Act, 1947. He stated that during pendency of the Reference they have discussed the matter with the Management and in the mean time they are getting all the benefits and now all their claims in connection with this Reference have been satisfied and as such, the Union is not inclined to proceed with the case and they prayed for disposal of the Reference without any relief.

7. After recording of the statement of Sri Bijoy Gogoi, General Secretary, Motor Workers' Union, Head Office-Duliajan, I have heard the learned Advocates for both the sides on the matter. The Advocate for the Management verbally agreed to the contention of the Union and expressed his no objection if the Reference is disposed of without any relief. Learned Advocate for the Management also has not pressed for cost of the proceeding.

8. In view of the above discussion and having regard to the submission of both the sides the Reference is disposed of without granting any relief. However, I am not inclined to pass any order as to the cost.

9. Send the no relief Award to the Ministry as per procedure.

Given under my hand and seal of this Court on this 8th day of October, 2013 at Guwahati.

L. C. DEY, Presiding Officer

नई दिल्ली, 13 फरवरी, 2014

का०आ 819.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एअरपोर्ट अथॉरिटी ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 39/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/2/2014 को प्राप्त हुआ था।

[सं० एल-15025/01/2014-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 13th February, 2014

S.O. 819.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 39/2005) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Airport Authority of India and their workman, which was received by the Central Government on 11/2/2014.

[No. L-15025/01/2014-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

PRESENT: SMT. M. VIJAYALAKSHMI,
Presiding Officer

Dated the 17th day of January, 2014

INDUSTRIAL DISPUTE L.C. No. 39/2005

Between:

Sri A.V. Anil Kumar,
S/o. A.P. Vittal,
H. No. 2-6-24/6, Machabolaram,
Kumarbasthi, Near Pochamma Temple,
Secunderabad-500015.

..... Petitioner

AND

1. The Chairman,
Airport Authority of India,
Safdarjung Airport, New Delhi-I
2. The Executive Engineer (Ele),
Airport Authority of India,
Hyderabad Airport, Begumpet,
Hyderabad - 500016.
3. M/s. Gannon Dunkerly & Co.,
Early Street, Calcutta,
C/o Kalavathi Electrical Works,
1-9-53/2, Alwal, Secunderabad-500015.
4. M/s. I.C.S. Systems Ltd.,
4-135, Fatehnagar,
Hyderabad.

.... Respondents

APPEARANCES:

For the Petitioner : Sri Ch. Indrasena Reddy, Advocate
For the Respondent : M/s. M. Vijaya Kumar, I. Sambasiva
Rao & D. Sreekanth, Advocates

AWARD

This is a petition filed by Sri A.V. Anil Kumar, the workman invoking Sec. 2A (1) and (2) of the I.D. Act, 1947

seeking for a relief declaring that the Petitioner is deemed to be continuing in service pending regularization of services, and consequently directing the respondents to pay wages from the date of termination including difference of pay of regular employee with 12% interest p.a. till the date of payment together with attendant benefits. He also sought for the following interim reliefs *i.e.*, to reinstate him into service of the 4th respondent of else where and also for directing the third respondent to pay wages pending adjudication of the dispute and from the date of oral termination *i.e.*, 17.7.2000 with interest at 12% p.a. till the date of retirement.

2. The averments made in the petition in brief are as follows:

Petitioner has been working as Semiskilled Fitter-cum-operator in the Electrical department of the 2nd Respondent since 15.3.1995. He was interviewed by the Junior Executive Engineer, of Airport Authority of India, Hyderabad in the year 1995 and was selected for employment as N.M.R. and he was allotted to work under the 3rd Respondent represented by its sub-contractor *i.e.*, Kalavathi Electrical Works. He was paid monthly salary of Rs. 2480. His signature was being taken in wage register. He used to perform duties at Rajiv Gandhi Terminal of N.T.R. Terminal as conveyor belt operator and also used to perform or assist the operation and maintenance and also to repairs of passenger baggage conveyor system; daily, weekly and annual maintenance schedule during their duty timings. He got requisite knowledge of the work of conveyor belt operating and its repairs. His attendance was marked by J.E., Electrical, who is an officer of Airport Authority of India (A.A.I.) and his salary was being paid by the Airport. Therefore it is clear that he was completely under the control of the 2nd Respondent who is the principal employer. He was given identity card and his signatures were obtained in log books maintained by the contractors. He worked round the clock without a holiday or over time. He worked on par with the regular employees of the department though he was denied the facilities to which the regular employees are provided with like pay scales, holidays, weekly offs, casual leaves etc., with the expectation that his services would be regularised in future. The work is perennial in nature and 1st Respondent ought to have considered case of the Petitioner and regularised his services, after abolishing of the contract labour system by the Government of India *vide* notification No. SO.114/E dated 16.11.1999. Petitioner is qualified with respect to eligibility to hold the posts in which he worked, on a regular basis. After the system of contract labour was abolished consequent to notification issued on 16.11.1999, the AAI became direct employer eliminating the middlemen and the contractor thereby with effect from 16.11.1999 there is relationship of employer and employee between the 2nd Respondent and the Petitioner. Without complying with the rules of Contract Labour (R&A) particularly Sec. 14, *i.e.*, Procedure for

Termination of Services of Sec. 25F of Industrial Disputes Act, 1947, 4th Respondent orally terminated the services of the Petitioner from 17.7.2000 and engaged men of their choice thus depriving livelihood of the Petitioner. Aggrieved by the illegal termination of the Petitioner by 4th Respondent their union namely Airport Authority Kamgar Union, filed a petition invoking Sec. 2 (k) of Industrial Disputes Act, 1947 before the Assistant Labour Commissioner (Central), Hyderabad but no conciliation took place. 2nd Respondent continued the contract labour system even till today, initially through the 3rd Respondent and now through the 4th Respondent. After Petitioner was terminated without notice. 4th Respondent engaged other persons in Petitioner's place, though the Respondents were specifically directed by the Hon'ble High Court of A.P. in their order dated in WVMP 3479/2000 in WPMP No. 16170/2000, not to replace the Petitioner with the third parties. The persons who were working on aero bridge were brought to work on conveyor belt by 4th Respondent. In spite of Petitioner putting in 240 days of continuous service each year without complying with the provisions of Sec. 25F of Industrial Disputes Act, 1947 his services were terminated. It is to be verified whether the contract is a genuine contract or it is mere ruse or camouflage to evade compliance with various legislations so as to deprive the workers of the benefit thereunder.

3. Respondents 1 and 2 filed their counter with the averments in brief as follows:

Airport Authority of India ought to have been made a party but not the Chairman or the Executive Engineer. Prior to March, 1997 conveyor belt was not commissioned at Hyderabad airport. The date of commissioning of Rajiv Gandhi Terminal was 10.3.1997 as such, there was no need to operate the conveyor belt before that date. The contention of the Petitioner that he was engaged by AAI from 15.3.1995 onwards is totally incorrect. AAI got nothing to do with the Petitioner before 13.3.1997 as there was no conveyor belt operation till that date. Prior to 13.3.97 Petitioner might have worked under any contractor as an unskilled labour for the erection of conveyor which is not a continuous process and which does not require any regular employment. There is no employer and employee relationship between AAI and Petitioner. Petitioner never reported to any Airport Authority of India official and AAI never marked his attendance. No payment was made by AAI to the Petitioner. AAI's involvement is limited to the general supervision of works that was being done through agency of contractors. AAI do not have any regular conveyor belt operator with whom the job of Petitioner can be compared. AAI has discontinued the operation of the conveyors. Conveyors are operated by respective airline operators. The Government of India's order dated 16.11.1999 was quashed by the Delhi High Court on 22.11.2001.

Therefore, no relief can be claimed on the strength of said government order. At present AAI is getting the periodic maintenance of the conveyors done through agencies having technical expertise in the field. There is no regular deployment of the staff of AAI for this purpose. The order of Hon'ble High Court of A.P. dated 19.4.2001 referred in the petition does not speak of continuation of the labour. At present 4th Respondent is carrying out periodic maintenance of the conveyor belt at Hyderabad airport. There is no industrial dispute what so ever that could be raised against the Respondents No. 1 and 2. There is no post as Conveyor Belt Operator-cum-Electrician, helper, electrician, fitter etc., in Respondent's organization. Conveyer belts have never been operated by the Respondents No. 1 and 2 and the same are being operated by the airlines on their own. No operator is required for Respondents 1 and 2. AAI is responsible only for the periodic maintenance of the conveyor belts. For which no operator is required. The contention of the Petitioner that AAI deployed regular employees for operating conveyor belt is not correct. Petitioner never approached Assistant Labour Commissioner (Central), Hyderabad, Petition is liable to be dismissed.

4. By virtue of order dated 9.5.2007 3rd Respondent has been set exparte and by virtue of order dated 7.3.2007 4th Respondent has been set exparte by this forum.

5. Since main case itself is being disposed off, the court need not consider the interim reliefs sought for.

6. To substantiate the contentions of the workman he examined himself as WW1 by filing his chief examination affidavit. But he was no subject to any cross examination by the Respondent. As respondent was not showing any interest corss examine the said witness, his right to cross examine the said witness forfeited by virtue of order 29.7.2011. No evidence was adduced for the Respondent.

7. Heard either party.

8. The Point that arise for determination is:

Whether the Petitioner is entitled for the main reliefs sought for?

9. Point:

The workman involved Sec. 2 A (1) and (2) of the I.D. Act, 1947 and filed this petition seeking for a relief of declaration that the Petitioner is deemed to the continuing in service pending regularization of services and consequently to direct the respondents to pay wages to him from the date of termination including difference of pay of regular employee with 12% interest till date of payment. This is a very vague relief sought for. It can be said so since no where in the petition, Petitioner claimed that he initiated any proceeding seeking for regularization of his services. In such case seeking for declaration that he

is deemed to be continuing in service pending regularization of his services does not arise. Like wise, the consequential direction to the respondents sought for, to pay him any wages, also does not arise.

10. Further more, a careful perusal of the material made available on the record including the pleading of the Petitioner, giving rise to a conclusion that Petitioner's claims themselves are vague. Petitioner, on one hand is claiming that he is an employee of the 2nd Respondent. On the other hand he is claiming that he is an employee of third Respondent, having allotted by the 2nd Respondent to work under the 3rd Respondent. 2nd Respondent is an executive engineer of AAI. 3rd Respondent is a private company. How 2nd Respondent can engage a worker and allot him to work under 3rd Respondent is a question which remained unanswered.

11. Further more, Petitioner is relying upon a document dated 6.7.2000 said to have been issued by one Kalavathi Electricals which is to the effect that Petitioner worked in their concern and has been associated with maintenance of baggage conveyor system at Rajiv Gandhi Terminal building or N.T.R. Terminal building at Hyderabad Airport. Petitioner claimed that said Kalavathi Electrical works is sub-contractor for the 3rd Respondent. But, the certificate issued by Said Kalavathi Electrical Works does not show that the said firm is a sub-contractor to the 3rd Respondent. In such case how the Petitioner, who appeared to have worked for said Kalavathi Electrical Works can calim that 3rd Respondent got anything to do with the work done by him is also a question which remains unanswered. As it is the contention of the Petitioner himself, that Petitioner worked for Kalavathi Electirral Works a sub-contractor of 3rd Respondent, 3rd Respondent will not have anything to do with him. Kalavathi electrical works is his employer. The certificate issued by Kalavathi Electrical Works dated 6.7.2000 clearly indicates that Petitioner has been working in their concern.

12. In the given circumstances, question of either of the Respondents 1 to 4 terminating services of the Petitioner does not arise.

13. In view of the fore gone discussion, it can safely be held that there is no industrial dispute to be dissolved, existing among the parties to this petition and that Petitioner is not entitled for any of the reliefs sought for.

14. Result:

In the result, Petition is dismissed.

Award passed accordingly, Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 17th day of January, 2014.

M. VIJAYALAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner Witnesses examined for the Respondent

WW1: Sri A.V. Anil Kumar NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 13 फरवरी, 2014

का.आ. 820.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एयरपोर्ट अथॉरिटी ऑफ़ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या 41/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/2/2014 को प्राप्त हुआ था।

[सं. एल-15025/01/2014-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 13th February, 2014

S.O. .820.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 41/2005) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Airport Authority of India and their workman, which was received by the Central Government on 11/2/2014.

[No. L-15025/01/2014-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD**

PRESENT: Smt. M. Vijaya Lakshmi, Presiding Officer

Dated the 17th day of January, 2014

INDUSTRIAL DISPUTE L.C. No. 41/2005

Between:

Sri. M. Balakrishna,
S/o M. Balanarsimha Goud,
H.No. 4-52,
Cheriyal

.....Petitioner

AND

1. The Chairman,
Airport Authority of India,
Safdar Jung Airport, New Delhi-1

2. The Executive Engineer (Ele.),
Airport Authority of India,
Hyderabad Airport, Begumpet,
Hyderabad-500 016.

3. M/s. Gannon Dunkerly & Co.
Early Street, Calcutta,
C/o Kalavathi Electrical Works,
1-9-53/2, Alwal, Secunderabad-500 015.

4. M/s. I.C.S. Systems Ltd.,
4-135, Fatehnagar,
Hyderabad

.....Respondents

APPEARANCES:

For the Petitioner : Sri Ch. Indrasena Reddy, Advocate

For the Respondent : M/s. M. Vijaya Kumar, I. Sambasiva
Rao & D. Sreekanth, Advocates.

AWARD

This is a petition filed by Sri M. Balakrishna, the workman invoking Sec. 2 A (1) and (2) of the I.D. Act, 1947 seeking for a relief declaring that the Petitioner is deemed to be continuing in service pending regularization of services, and consequently directing the respondents to pay wages from the date of termination including difference of pay of regular employee with 12% interest p.a. till the date of payment together with attendant benefits. He also sought for the following interim reliefs *i.e.* to reinstate him into service of the 4th respondents or else where and also for directing the third respondent to pay wages pending adjudication of the dispute and from the date of oral termination *i.e.*, 17.7.2000 with interest at 12% p.a. till the date of retirement.

2. The averments made in the petition in brief are as follows : Petitioner has been working as Khalasi in the Electrical department of the 2nd Respondent since 1.7.1999. He was interviewed by the Junior Executive Engineer of Airport Authority of India, Hyderabad in the year 1995 and was selected for employment as N.M.R. and he was allotted to work under the 3rd Respondent represented by its sub-contractor *i.e.*, Kalavathi Electrical Works. He was paid monthly salary of Rs. 1860. His signature was being taken in wage register. He used to perform duties at Rajiv Gandhi Terminal or N.T.R. Terminal as conveyor belt operator and also used to perform or assist the operation and maintenance and also to repairs of passenger baggage conveyor system; daily, weekly and annual maintenance schedule during their duty timings. He got requisite knowledge of the work of conveyor belt operating and its repairs. His attendance was marked by J.E., Electrical, who is an officer of Airport Authority of India (A.A.I.) and his salary was being paid by the Airport. Therefore it is clear

that he was completely under the control of the 2nd Respondent who is the principal employer. He was given identity card and his signatures were obtained in log books maintained by the contractors. He worked round the clock without a holiday or over time. He worked on par with the regular employees of the department though he was denied the facilities to which the regular employees are provided with like pay scales, holidays, weekly offs, casual leaves etc., with the expectation that his services would be regularised in future. The work is perennial in nature and 1st Respondent ought to have considered case of the Petitioner and regularised his services, after abolishing of the contract labour system by the Government of India *vide* notification No. SO. 114/E dated 16.11.1999. Petitioner is qualified with respect to eligibility to hold the posts in which he worked, on a regular basis. After the system of contract labour was abolished consequent to notification issued on 16.11.1999, the AAI became direct employer eliminating the middlemen and the contractor thereby with effect from 16.11.1999 there is relationship, of employer and employee between the 2nd Respondent and the Petitioner. Without complying with the rules of Contract Labour (R&A) particularly Sec. 14, *i.e.*, Procedure For Termination of Services or Sec. 25F of Industrial Disputes Act, 1947, 4th Respondent orally terminated the services of the Petitioner from 17.7.2000 and engaged men of their choice thus depriving livelihood of the Petitioner. Aggrieved by the illegal termination of the Petitioner by 4th Respondent their union namely Airport Authority Kamgar Union, filed a petition invoking Sec. 2 (k) of Industrial Disputes Act, 1947 before the Assistant Labour Commissioner (Central, Hyderabad but no conciliation took place, 2nd Respondent continued the contract labour system even till today, initially through the 3rd Respondent and now through the 4th Respondent. After Petitioner was terminated without notice, 4th Respondent engaged other persons in Petitioner's place, though the Respondents were specifically directed by the Hon'ble High Court of A.P. in their order dated in WVMP 3479/2000 in WPMP No. 16170/2000, not to replace the Petitioner with the third parties. The persons who were working on aero bridge were brought to work on conveyor belt by 4th Respondent. In spite of Petitioner putting in 240 days of continuous service each year without complying with the provisions of Sec. 25F of Industrial Disputes Act, 1947 his services were terminated. It is to be verified whether the contract is a genuine contract or it is a mere ruse or camouflage to evade compliance with various legislations so as to deprive the workers of the benefit thereunder.

3. Respondents 1 and 2 filed their counter with the averments in brief as follows:

Airport Authority of India ought to have been made a party but not the Chairman or the Executive Engineer. Prior to March, 1997 conveyor belt was not commissioned at Hyderabad airport. The date of commissioning of Rajiv

Gandhi Terminal was 10.3.1997 as such, there was no need to operate the conveyor belt before that date. There is no employer and employee relationship between AAI and Petitioner. Petitioner never reported to any Airport Authority of India official and AAI never marked his attendance. No payment was made by AAI to the Petitioner. AAI's involvement is limited to the general supervision of works that was being done through agency of contractors. AAI do not have any regular conveyor belt operator with whom the job of Petitioner can be compared. AAI has discontinued the operation of the conveyors. Conveyors are operated by respective airline operators. The Government of India's order dated 16.11.1999 was quashed by the Delhi High Court on 22.11.2001. Therefore, no relief can be claimed on the strength of said government order. At present AAI is getting the periodic maintenance of the conveyors done through agencies having technical expertise in the field. There is no regular deployment of the staff of AAI for this purpose. The order of Hon'ble High Court of A.P. dated 19.4.2001 referred in the petition does not speak of continuation of the labour. At present 4th Respondent is carrying out periodic maintenance of the conveyor belt at Hyderabad airport. There is no industrial dispute what so ever that could be raised against the Respondents No. 1 and 2. There is no post as conveyor Belt Operator cum Electrician, 'khalasi' helper, electrician, fitter etc., in Respondent's organization. Conveyor belts have never been operated by the Respondents No. 1 and 2 and the same are being operated by the airlines on their own. No operator is required for Respondents 1 and 2. AAI is responsible only for the periodic maintenance of the conveyor belts. For which no operator is required. The contention of the Petitioner that AAI deployed regular employees for operating conveyor belt is not correct. Petitioner never approached Assistant Labour Commissioner (Central), Hyderabad. Petition is liable to be dismissed.

4. By virtue of order dated 9.5.2007 3rd Respondent has been set *ex parte* and by virtue of order dated 7.3.2007 4th Respondent has been set *ex parte* by this forum.

5. Since main case itself is being disposed off, the court need not consider the interim reliefs sought for.

6. To substantiate the contentions of the workman he examined himself as WW1 by filing his chief examination affidavit. But he was not subject to any cross examination by the Respondent. As Respondent was not showing any interest to cross examine the said witness, his right to cross examine the said witness forfeited by virtue of order 29.7.2011. No evidence was adduced for the Respondent.

7. Heard either party.

8. The Point that arise for determination is:

Whether the Petitioner is entitled for the main reliefs sought for?

9. Point:

The workman invoked Sec. 2 A(1) and (2) of the I.D. Act, 1947 and filed this petition seeking for a relief of declaration that the Petitioner is deemed to be continuing in service pending regularization of services and consequently to direct the respondents to pay wages to him from the date of termination including difference of pay of regular employee with 12% interest till date of payment. This is a very vague relief sought for. It can be said so since no where in the petition, Petitioner claimed that he initiated any proceeding seeking for regularization of his services. In such case seeking for declaration that he is deemed to be continuing in service pending regularization of his services does not arise. Like wise, the consequential direction to the respondents sought for, to pay him any wages, also does not arise.

10. Further more, a careful perusal of the material made available on the record including the pleading of the Petitioner, giving rise to a conclusion that Petitioner's claims themselves are vague. Petitioner, on one hand is claiming that he is an employee of the 2nd Respondent. On the other hand he is claiming that he is an employee of third Respondent, having allotted by the 2nd Respondent to work under the 3rd Respondent. 2nd Respondent is an executive engineer of AAI. 3rd Respondent is a private company. How 2nd Respondent can engage a worker and allot him to work under 3rd Respondent is a question which remained unanswered.

11. Further more, Petitioner is relying upon a document dated 5.6.2000 said to have been issued by one Kalavathi Electricals which is to the effect that Petitioner worked in their concern and has been associated with maintenance of baggage conveyor system at Rajiv Gandhi Terminal building or N.T.R. Terminal building at Hyderabad Airport. Petitioner claimed that said Kalavathi Electrical works is sub-contractor for the 3rd Respondent. But, the certificate issued by said Kalavathi Electrical Works does not show that the said firm is a sub-contractor to the 3rd Respondent. In such case how the Petitioner, who appeared to have worked for said Kalavathi Electrical Works can claim that 3rd Respondent got anything to do with the work done by him is also a question which remains unanswered. As it is the contention of the Petitioner himself, that Petitioner worked for Kalavathi Electrical Works a sub-contractor of 3rd Respondent, 3rd Respondent will not have anything to do with him. Kalavathi electrical works is his employer. The certificate issued by Kalavathi Electrical Works is his employer. dated 5.6.2000 clearly indicates that Petitioner has been working in their concern.

12. In the given circumstances, question of either of the Respondents 1 to 4 terminating services of the Petitioner does not arise.

13. In view of the fore gone discussion, it can safely be held that there is no industrial dispute to be dissolved, existing among the parties to this petition and that Petitioner is not entitled for any of the reliefs sought for.

14. Result:

In the result, Petition is dismissed.

Award passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 17th day of January, 2014.

M. VIJAYALAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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WW1: Sri M Balakrishna	NIL
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Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 13 फरवरी, 2014

का०आ० 821.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एअरपोर्ट अथॉरिटी ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 40/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/2/2014 को प्राप्त हुआ था।

[सं० एल०-15025/01/2014-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 13th February, 2014

S.O. 821.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 40/2005) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Airport Authority of India and their workman, which was received by the Central Government on 11/2/2014.

[No.L-15025/01/2014-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD****PRESENT:** SMT. M. VIJAYALAKSHMI,
Presiding Officer

Dated the 17th day of January, 2014

INDUSTRIAL DISPUTE L.C. No. 40/2005**Between:**Sri G. Chandra Sekhar,
S/o G. Yadaiah,
H.No.8-1-107, Shaikpet,
Golconda Post,
Hyderabad-500 008Petitioner

AND

1. The Chairman,
Airport Authority of India,
Safdar Jung Airport, New Delhi-1
2. The Executive Engineer (Ele.),
Airport Authority of India,
Hyderabad Airport, Begumpet,
Hyderabad-500 016.
3. M/s. Gannon Dunkerly & Co.,
Early Street, Calcutta,
C/o Kalavathi Electrical Works,
1-9-53/2, Alwal, Secunderabad-500 015.
4. M/s. I.C.S. Systems Ltd.,
4-135, Fatehnagar,
Hyderabad.Respondents

APPEARANCES:

For the Petitioner : Sri Ch. Indrasena Reddy, Advocate

For the Respondent : M/s. M. Vijaya Kumar, I Sambasiva
Rao & D. Sreekanth, Advocates**AWARD**

This is a petition filed by Sri G. Chandra Sekhar, the workman invoking Sec.2 A(1) and (2) of the I.D. Act, 1947 seeking for a relief declaring that the Petitioner is deemed to be continuing in service pending regularization of services, and consequently directing the respondents to pay wages from the date of termination including difference of pay of regular employee with 12% interest p.a. till the date of payment together with attendant benefits. He also sought for the following interim reliefs *i.e.*, to reinstate him into service of the 4th respondent or else where and also for directing the third respondent to pay wages pending

adjudication of the dispute and from the date of oral termination *i.e.*, 17.7.2000 with interest at 12% p.a. till the date of retirement.

2. The averments made in the petition in brief are as follows:

Petitioner has been working as Helper in the ELectrical department of the 2nd Respondent since 1.7.1999. He was interviewed by the Junior Executive Engineer, of Airport Authority of India, Hyderabad in the year 1995 and was selected for Employment as N.M.R. and he was allotted to work under the 3rd Respondent represented by its sub-contractor *i.e.*, Kalavathi Electrical Works. He was paid monthly salary of Rs. 1860/-. His signature was being taken in wage register. He used to perform duties at Rajiv Gandhi Terminal or N.T.R. Terminal as conveyor belt operator and also used to perform or assist the operation and maintenance and also to repairs of passenger baggage conveyor system; daily, weekly and annual maintenance schedule during their duty timings. He got requisite knowledge of the work of conveyor belt operating and its repairs. His attendance was marked by J.E., Electrical, who is an officer of Airport Authority of India (A.A.I.) and his salary was being paid by the Airport. Therefore it is clear that he was completely under the control of the 2nd Respondent who is the principal employer. He was given identity card and his signatures were obtained in log books maintained by the contractors. He worked round the clock without a holiday or over time. He worked on par with the regular employees of the department though he was denied the facilities to which the regular employees are provided with like pay scales, holidays, weekly offs, casual leaves etc., with the expectation that his services would be regularised in future. The work is perennial in nature and 1st Respondent ought to have considered case of the Petitioner and regularised his services, after abolishing of the contract labour system by the Government of India *vide* notification No. SO. 114/E dated 16.11.1999. Petitioner is qualified with respect to eligibility to hold the posts in which he worked, on a regular basis. After the system of contract labour was abolished consequent to notification issued on 16.11.1999, the AAI became direct employer eliminating the middlemen and the contractor thereby with effect from 16.11.1999 there is relationship of employer and employee between the 2nd Respondent and the Petitioner. Without complying with the rules of Contract Labour (R&A) particularly Sec. 14, *i.e.*, Procedure for Termination of Services or Sec. 25F of Industrial Disputes Act, 1947, 4th Respondent orally terminated the services of the Petitioner from 17.7.2000 and engaged men of their choice thus depriving livelihood of the Petitioner. Aggrieved by the illegal termination of the Petitioner by 4th Respondent their union namely Airport Authority Kamgar Union, filed a

petition invoking Sec. 2(k) of Industrial Disputes Act, 1947 before the Assistant Labour Commissioner (Central), Hyderabad but no conciliation took place. 2nd Respondent continued the contract labour system even till today, initially through the 3rd Respondent and now through the 4th Respondent. After Petitioner was terminated without notice, 4th Respondent engaged other persons in Petitioner's place, though the Respondents were specifically directed by the Hon'ble High Court of A.P. in their order dated in WVMP 3479/2000 in WPMP No. 16170/2000, not to replace the Petitioner with the third parties. The persons who were working on aero bridge were brought to work on conveyor belt by 4th Respondent. In spite of Petitioner putting in 240 days of continuous service each year without complying with the provisions of Sec. 25F of Industrial Disputes Act, 1947 his services were terminated. It is to be verified whether the contract is a genuine contract or it is a mere ruse or camouflage to evade compliance with various legislations so as to deprive the workers of the benefit thereunder.

3. Respondents 1 and 2 filed their counter with the averments in brief as follows:

Airport Authority of India ought to have been made a party but not the Chairman or the Executive Engineer. Prior to March, 1997 conveyor belt was not commissioned at Hyderabad airport. The date of commissioning of Rajiv Gandhi Terminal was 10.3.1997 as such, there was no need to operate the conveyor belt before that date. There is no employer and employee relationship between AAI and Petitioner. Petitioner never reported to any Airport Authority of India official and AAI never marked his attendance. No payment was made by AAI to the Petitioner. AAI's involvement is limited to the general supervision of works that was being done through agency of contractors. AAI do not have any regular conveyor belt operator with whom the job of Petitioner can be compared. AAI has discontinued the operation of the conveyors. Conveyors are operated by respective airline operators. The Government of India's order dated 16.11.1999 was quashed by the Delhi High Court on 22.11.2001. Therefore, no relief can be claimed on the strength of said government order. At present AAI is getting the periodic maintenance of the conveyors done through agencies having technical expertise in the field. There is no regular deployment of the staff of AAI for this purpose. The order of Hon'ble High Court of A.P. dated 19.4.2001 referred in the petition does not speak of continuation of the labour. At present 4th Respondent is carrying out periodic maintenance of the conveyor belt at Hyderabad airport. There is no industrial dispute whatsoever that could be raised against the Respondents No. 1 and 2. There is no post as Conveyor Belt Operator-cum-Electrician, helper,

electrician, fitter etc., in Respondent's organization. Conveyor belts have never been operated by the Respondents No. 1 and 2 and the same are being operated by the airlines on their own. No operator is required for Respondent 1 and 2. AAI is responsible only for the periodic maintenance of the conveyor belts. For which no operator is required. The contention of the Petitioner that AAI deployed regular employees for operating conveyor belt is not correct. Petitioner never approached Assistant Labour Commissioner (Central), Hyderabad. Petition is liable to be dismissed.

4. By virtue of order dated 9.5.2007 3rd Respondent has been set exparte and by virtue of order dated 7.3.2007 4th Respondent has been set exparte by this forum.

5. Since main case itself is being disposed off, the court need not consider the interim reliefs sought for.

6. To substantiate the contentions of the workman he examined himself as WW1 by filing his chief examination affidavit. But he was not subject to any cross examination by the Respondent. As Respondent was not showing any interest to cross examine the said witness, his right to cross examine the said witness forfeited by virtue of order 29.7.2011. No evidence was adduced for the Respondent.

7. Heard either party.

8. The Point that arise for determination is:

Whether the Petitioner is entitled for the main reliefs sought for?

9. Point:

The workman invoked Sec. 2A (1) and (2) of the I.D. Act, 1947 and filed this petition seeking for a relief of declaration that the Petitioner is deemed to be continuing in service pending regularization of services and consequently to direct the respondents to pay wages to him from the date of termination including difference of pay of regular employee with 12% interest till date of payment. This is a very vague relief sought for. It can be said so since no where in the petition, Petitioner claimed that he initiated any proceeding seeking for regularization of his services. In such case seeking for declaration that he is deemed to be continuing in service pending regularization of his services does not arise. Likewise, the consequential direction to the respondents sought for, to pay him any wages, also does not arise.

10. Further more, a careful perusal of the material made available on the record including the pleading of the Petitioner, giving rise to a conclusion that Petitioner's claims themselves are vague. Petitioner, on one hand is claiming that he is an employee of the 2nd Respondent. On the

other hand he is claiming that he is an employee of third Respondent, having allotted by the 2nd Respondent to work under the 3rd Respondent. 2nd Respondent is an Executive Engineer of AAI. 3rd Respondent is a private company. How 2nd Respondent can engage a worker and allot him to work under 3rd Respondent is a question which remained unanswered.

11. Furthermore, Petitioner is relying upon a document dated 5.6.2000 said to have been issued by one Kalavathi Electricals which is to the effect that Petitioner worked in their concern and has been associated with maintenance of baggage conveyor system at Rajiv Gandhi Terminal building or N.T.R. Terminal building at Hyderabad Airport. Petitioner claimed that said Kalavathi Electrical works is sub-contractor for the 3rd Respondent. But, the certificate issued by said Kalavathi Electrical Works does not show that the said firm is a sub-contractor to the 3rd Respondent. In such case how the Petitioner, who appeared to have worked for said Kalavathi Electrical Works can claim that 3rd Respondent got anything to do with the work done by him is also a question which remains unanswered. As it is the contention of the Petitioner himself, that Petitioner worked for Kalavathi Electrical Works a sub-contractor of 3rd Respondent, 3rd Respondent will not have anything to do with him. Kalavathi Electrical Works is his employer. The certificate issued by Kalavathi Electrical Works dated 5.6.2000 clearly indicates that Petitioner has been working in their concern.

12. In the given circumstances, question of either of the Respondents 1 to 4 terminating services of the Petitioner does not arise.

13. In view of the foregone discussion, it can safely be held that there is no industrial dispute to be dissolved, existing among the parties to this petition and that Petitioner is not entitled for any of the reliefs sought for.

14. Result:

In the result, Petition is dismissed.

Award passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this 17th day of January, 2014.

M. VIJAYALAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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WW1: Sri G. Chandra Sekhar	NIL
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Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 13 फरवरी, 2014

का०आ० 822.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एअरपोर्ट अथॉरिटी ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 38/2005) प्रकाशित करती है जो केन्द्रीय सरकार को 11/2/2014 को प्राप्त हुआ था।

[सं० एल०-15025/01/2014-आई आर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 13th February, 2014

S.O. 822.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 38/2005) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Airport Authority of India and their workman, which was received by the Central Government on 11/2/2014.

[No.L-15025/01/2014-IR (M)]
JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT: Smt. M. Vijaya Lakshmi, Presiding Officer
Dated the 17th day of January, 2014

INDUSTRIAL DISPUTE L.C. No. 38/2005

Between:

Sri Syed Jahangir,
S/o Syed Abdul Salam,
H.No. 26-150, Roadamastry Nagar,
Gajularamaram, Shapurnagar
Ranga Reddy District- 500 055.

....Petitioner

AND

1. The Chairman,
Airport Authority of India,
Sardar Jung Airport, New Delhi-1
2. The Executive Engineer (Ele)
Airport Authority of India,
Hyderabad Airport, Begumpet,
Hyderabad - 500016.
3. M/s. Gannon Dunkerly & Co.,
Early Street, Calcutta,
C/o Kalavathi Electrical Works,
1-9-53/2, Alwal, Secunderabad - 500 015.
4. M/s I.C.S. Systems Ltd.,
5-135, Fatehnagar,
Hyderabad.

... Respondents

APPEARANCES:

For the Petitioner : Sri Ch. Indrasena Reddy, Advocate

For the Respondent : M/s M. Vijaya Kumar, I.
Sambasiva Rao & D. Sreekanth,
Advocates**AWARD**

This is a petition filed by Sri Syed Jahangir, the workman invoking Sec. 2 A (1) and (2) of the I.D. Act, 1947 seeking for a relief declaring that the Petitioner is deemed to be continuing in service pending regularization of services, and consequently directing the respondents to pay wages from the date of terminating including difference of pay of regular employee with 12% interest p.a. till the date of payment together with attendant benefits. He also sought for the following interim reliefs i.e., to reinstate him into service of the 4th respondent or else where and also for directing the third respondent to pay wages pending adjudication of the dispute and from the date of oral termination i.e., 17.7.2000 with interest at 12% p.a. till the date of retirement.

2. The averments made in the petition in brief are as follows:

Petitioner has been working as Conveyor Belt Operator-cum-Electrician in the Electrical department of the 2nd Respondent since 15.3.1995. He was interviewed by the Junior Executive Engineer, of Airport Authority of India, Hyderabad in the year 1995 and was selected for employment as N.M.R. and he was allotted to work under the 3rd Respondent represented by its sub-contractor i.e., Kalavathi Electrical Works. He was paid monthly salary of Rs. 2640/-. His signature was being

taken in wage register. He used to perform duties at Rajiv Gandhi Terminal or N.T.R. Terminal as conveyor belt operator and also used to perform or assist the operation and maintenance and also to repairs of passenger baggage conveyor system; daily, weekly and annual maintenance schedule during their duty timings. He got requisite knowledge of the work of conveyor belt operating and its repairs. His attendance was marked by J.E., Electrical, who is an officer of Airport Authority of India (A.A.I.) and his salary was being paid by the Airport. Therefore it is clear that he was completely under the control of the 2nd Respondent who is the principal employer. He was given identity card and his signatures were obtained in log books maintained by the contractors. He worked round the clock without a holiday or over time. He worked on par with the regular employees of the department though he was denied the facilities to which the regular employees are provided with like pay scales, holidays, weekly offs, casual leaves etc., with the expectation that his services would be regularized in future. The work is perennial in nature and 1st Respondent ought to have considered case of the Petitioner and regularized his services, after abolishing of the contract labour system by the Government of India vide notification No. SO. 114/E dated 16.11.1999. Petitioner is qualified with respect to eligibility to hold the posts in which he worked, on a regular basis. After the system of contract labour was abolished consequent to notification issued on 16.11.1999, the AAI became direct employer eliminating the middlemen and the contractor thereby with effect from 16.11.1999 there is relationship of employer and employee between the 2nd Respondent and the Petitioner. Without complying with the rules of Contract Labour (R&A) particular Sec. 14, i.e., Procedure For Termination of Services or Sec. 25F of Industrial Disputes Act, 1947, 4th Respondent orally terminated the services of the Petitioner from 17.7.2000 and engaged men of their choice thus depriving livelihood of the Petitioner. Aggrieved by the illegal termination of the Petitioner by 4th Respondent their union namely Airport Authority Kamgar Union, filed a petition invoking Sec.2(k) of Industrial Dispute Act, 1947 before the Assistant Labour Commissioner (Central), Hyderabad but no conciliation took place. 2nd Respondent continued the contract labour system even till today, initially through the 3rd Respondent and now through the 4th Respondent. After Petitioner was terminated without notice, 4th Respondent engaged other persons in Petitioner's place, though the Respondents were specifically directed by the Hon'ble High Court of A.P.

in their order dated in WVMP 3479/2000 in WPMP No. 16170/2000, not to replace the Petitioner with the third parties. The persons who were working on aero bridge were brought to work on conveyor belt by 4th Respondent. In spite of Petitioner putting in 240 days of continuous service each year without complying with the provisions of Sec. 25F of Industrial Disputes Act, 1947 his services were terminated. It is to be verified whether the contract is a genuine contract or it is a mere ruse or camouflage to evade compliance with various legislations so as to deprive the workers of the benefit thereunder.

3. Respondents 1 and 2 filed their counter with the averments in brief as follows:

Airport Authority of India ought to have been made a party but not the Chairman or the Executive Engineer. Prior to march, 1947 conveyor belt was not commissioned at Hyderabad airport. The date of commissioning of Rajiv Gandhi Terminal was 10.3.1997 as such, there was no need to operate the conveyor belt before that date. The contention of the Petitioner that he was engaged by AAI from 15.3.1995 onwards is totally incorrect. AAI got nothing to do with the Petitioner before 13.3.1997 as there was no conveyor belt operation till that date. Prior to 13.3.97 Petitioner might have worked under any contractor as an unskilled labour for the erection of conveyor which is not a continuous process and which does not require any regular employment. There is no employer and employee relationship between AAI and Petitioner. Petitioner never reported to any Airport Authority of India official and AAI never marked his attendance. No payment was made by AAI to the Petitioner. AAI's involvement is limited to the general supervision of works that was being done through agency of contractors. AAI do not have any regular conveyor belt operator with whom the job of Petitioner can be compared. AAI has discontinued the operation of the conveyors. Conveyors are operated by respective airline operators. The Government of India's order dated 16.11.1999 was quashed by the Delhi High Court on 22.11.2001. Therefore, no relief can be claimed on the strength of said government order. At present AAI is getting the periodic maintenance of the conveyors done through agencies having technical expertise in the field. There is no regular deployment of the staff of AAI for this purpose. The order of Hon'ble High Court of A.P. dated 19.4.2001 referred in the petition does not speak of continuation of the labour. At present 4th Respondent is carrying out periodic maintenance of the conveyor belt at Hyderabad airport. There is no industrial dispute

whatsoever that could be raised against the Respondents No. 1 and 2. There is no post as Conveyor Belt Operator cum Electrician, helper, electrician, fitter etc., in Respondent's organization. Conveyor belts have never been operated by the Respondents No. 1 and 2 and the same are being operated by the airlines on their own. No operator is required for Respondent 1 and 2. AAI is responsible only for the periodic maintenance of the conveyor belts. For which no operator is required. The contention of the Petitioner that AAI deployed regular employees for operating conveyor belt is not correct. Petitioner never approached Assistant Labour Commissioner (Central), Hyderabad. Petition is liable to be dismissed.

4. By virtue of order 9.5. 2007, 3rd Respondent has been set exparte and by virtue of order dated 7.3.2007 4th Respondent has been set exparte by this forum.

5. Since main case itself is being disposed off, the court need not consider the interim relief sought for.

6. To substantiate the contentions of the workman he examined himself as WW1 by filling his chief examination affidavit. But he was not subject to any cross examination by the Respondent. As Respondent was not showing any interest to cross examine the said witness, his right to cross examine the said witness forfeited by virtue of order 29.7.2011. No evidence was adduced for the Respondent.

7. Heard either party.

8. The Point that arise for determination is:

Whether the Petitioner is entitled for the main reliefs sought for?

9. Point:

The workman invoked Sec. 2 A (1) and (2) of the I.D. Act, 1947 and filed this petition seeking for a relief of declaration that the Petitioner is deemed to be continuing in service pending regularization of services and consequently to direct the respondents to pay wages to him from the date of termination including difference of pay of regular employee with 12% interest till date of payment. This is a very vague relief sought for. It can be said so since nowhere in the petition, Petitioner claimed that he initiated any proceeding seeking for regularization of his services. In such case seeking for declaration that he is deemed to be continuing in service pending regularization of his services does not arise. Likewise, the consequential direction to the respondents sought for, to pay him any wages, also does not arise.

10. Further more, a careful perusal of the material made available on the record including the pleading of Petitioner, giving rise to a conclusion that Petitioner's claims themselves are vague. Petitioner, on one hand is claiming that he is an employee of the 2nd Respondent. On the other hand he is claiming that he is an employee of third Respondent, having allotted by the 2nd Respondent to work under the 3rd Respondent. 2nd Respondent is an executive engineer of AAI. 3rd Respondent is a private company. How 2nd Respondent can engage a worker and allot him to work under 3rd Respondent is a question which remained unanswered.

11. Furthermore, Petitioner is relying upon a document dated 6.7.2000 said to have been issued by one Kalavathi Electricals which is to the effect that Petitioner worked in their concern and has been associated with maintenance of baggage conveyor system at Rajiv Gandhi Terminal building or N.T.R. Terminal building at Hyderabad Airport. Petitioner claimed that said Kalavathi Electrical works is sub-contractor for the 3rd Respondent. But, the certificate issued by the Kalavathi Electrical Works does not show that the said firm is a sub-contractor to the 3rd Respondent. In such case how the Petitioner, who appeared to have worked for said Kalavathi Electrical Works can claim that 3rd Respondent got anything to do with the work done by him is also a question which remains unanswered. As it is the contention of the Petitioner himself, that Petitioner worked for Kalavathi Electrical Works a sub-contractor of 3rd Respondent, 3rd Respondent will not have anything to do with him. Kalavathi Electrical Works is his employer. The certificate issued by Kalavathi Electrical Works dated 6.7.2000 clearly indicates the Petitioner has been working in their concern.

12. In the given circumstances, question of either of the Respondents 1 to 4 terminating services of the Petitioner does not arise.

13. In view of the foregone discussion, it can safely be held that there is no industrial dispute to be dissolved, existing among the parties to this petition and that Petitioner is not entitled for any of the reliefs sought for.

14. Result:

In the result, Petition is dismissed.

Award passed accordingly, Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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WW1: Sri Syed Jahangir	NIL
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Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 13 फरवरी, 2014

का०आ० 823.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एअरपोर्ट अथॉरिटी ऑफ़ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 42/2007) प्रकाशित करती है जो केन्द्रीय सरकार को 11/2/2014 को प्राप्त हुआ था।

[सं० एल-15025/01/2014-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 13th February, 2014

S.O. 823—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 42/2007) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Airport Authority of India and their workman, which was received by the Central Government on 11/2/2014.

[No. L-15025/01/2014-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT:- SMT. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 3rd day of January, 2014

INDUSTRIAL DISPUTE L.C. No. 42/2007

BETWEEN:

Sri G. Trinadha Reddy,
D.No. 467-11,
Bhagivari Street Dondaparthi,
Visakhapatnam.

.....Petitioner

AND

The Managing Director,
Rashtriya Ispat Nigam Limited,
Visakhapatnam Steel Plant,
Water Management Department,
Visakhapatnam.

....Respondent

APPEARANCES:

For the Petitioner :	M/s. A. Sarojana & K. Vasudeva Reddy, Advocates
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For the Respondent :	M/s V. Ravinder Rao, S. Nayana Goud & Ramjoshi, Advocates
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AWARD

This is a petition filed by Sri G. Trinadh Reddy, Ex. Technician of respondent (Workman) invoking Sec.2A(2) of the Industrial Disputes Act, 1947 seeking for declaring the order of the respondent No. WK/WMD/109234/2130 dated 29.11.2006 whereunder the workman has been removed from service as illegal, arbitrary and contradictory to the provisions of law and consequently directing the respondent to reinstate the workman into service with back wages, continuity of service and all other attendant benefits.

2. The averments made in the petition in brief are as follows:

The workman was appointed on 22.10.1988. He was removed from service on 29.11.2006 with baseless allegations. A charge sheet has been issued against him alleging that he committed theft of the company's property with dishonest intention and fraudulently and further that he failed to maintain absolute integrity. These are all false and speculative charges. The charge sheet itself is defective and it prejudices the entire issue even before calling for explanation of the workman and the enquiry was reduced into empty formality. The enquiry officer was very keen in observing the contradictions in the defence while ignoring serious contradictions in the Management's case and erroneously held the workman as guilty. The enquiry officer has not approached the case in objective manner. There are serious contradictions in the depositions of MWs 4, 7 and 8 regarding the purported transactions of loading metallurgical coke in private dumpers the same raises doubt against veracity of the witnesses. Sri P.N.A. Naidu a material witness has not been examined. Sri M. Govindna Rao and Sri Rehman are also material witnesses, they also have not been examined. The conclusions drawn by the enquiry officer are perverse. The workman is unconcerned with the loading and unloading of the material and he does not know about the contract in between steel plant and private contractor. He is not guilty of the charges. He was sincere in discharging his duties except his salary he got no other income. He got neither movable nor immovable properties. The investigation made by the CBI officials establish the same. Hence, the petition.

3. Respondent filed his counter with the averments in brief as follows:

Enquiry was conducted against the workman duly following the procedure. The punishment awarded for the grave misconduct of the workman is reasonable. His contentions that he was removed from service on baseless allegation is not correct. Respondent received a communications dated 22.7.2003 from Central Bureau of Investigation stating that a Criminal Case No. 20(A) 2003 dated 18.7.2003 has been registered against the workman under Sec. 120-B, 420, 477-A of IPC and Sec. 13(2) read with 13(1) of Prevention of Corruption Act for committing an offence of theft of metallurgical coke. On such information

the Deputy Chief Manager(T) of Water Management Department being the Disciplinary Authority issued an order dated 23.7.2003 placing the workman under suspension pending further proceedings in terms of clause 31.1 of Certified Standing Orders of the company. Since the information received against the workman from CBI reveals misconduct prima facie disciplinary proceedings initiated and charge sheet dated 9.8.2005 has been issued to the workman. The misconduct noticed is referable under clause 27.25, and clause 27.65 read with clause 7.9(i) of the Standing Orders. The said clause read as under:

"7.9 Every employee shall at all times,

(i) Maintain absolute integrity.

27.25 Theft, fraud or dishonesty in connection with the company's business, affairs or operation or property or of the property entrusted by the company.

27.65 Any act which constitutes violation of any of these Standing Orders".

The contention of the workman that charge sheet has been the conclusion drawn by the Disciplinary Authority and it speaks prejudging the entire issue even before calling for explanation is false and baseless. For the charge sheet the explanation dated 18.8.2005 has been submitted by the workman. Neither in this explanation nor at any time during the course of enquiry the workman has complained that the charge sheet is in the nature of prejudging the issue. Without any demur he participated in the enquiry and availed the opportunity afforded. Thus, his contention that the enquiry was reduced to an empty formality is incorrect. Perusal of the enquiry report reveals that enquiry was conducted in unbiased and balanced manner. The workman has submitted written arguments before the enquiry officer and in it also he never has complained that the matter has been prejudged. The allegation relating to illness of the workman's daughter is an after thought. It was never raised during the course of enquiry. The calls made by the workman and other relevant persons from their mobile phones were duly considered by the enquiry officer. There are no contradictions in the evidence of MWs No. 4, 7 and 8 regarding loading of metallurgical coke in the instructions of workman, payment of Rs. 500 to MW4 in the presence of the workman at the site when the loading operation took place. No witnesses were examined as DW7 and 8. Workman has examined only four witnesses i.e., DWs No. 1 to 4. It is established beyond reasonable doubt that the mobile phone in question belonged to the workman and he made calls to certain persons relevant/connected to the misconduct/theft committed. Workman also received calls from such persons. Material evidence on record clearly establish that the workman and his brother Shri G. Murali Krishna Reddy were involved in the unauthorized coke business by diverting the same from the coke stock yard. Whether the workman being in possession of movable or immovable

property has been revealed during the investigation by the CBI is not relevant to the charges framed against the workman. The question relevant is whether the evidence let in by the presenting officer during the course of the enquiry established misconduct of the workman. The workman was afforded due opportunity by following principles of natural justice. Subsequent to the impugned order of removal of workman from service workman submitted duly signed final settlement forms for payment of final settlement which has been paid to him. It amounts to acceptance of the order of removal. The petition is liable to be dismissed with exemplary costs.

5. After hearing both parties regarding validity of domestic enquiry by virtue of order dated 16.6.2010 this forum held that the domestic enquiry conducted in this case is legal and valid.

6. Heard the arguments of either party under Sec. 11(A) of the Industrial Disputes Act, 1947. Further for respondent its represented that written arguments filed for them at the time of hearing regarding validity of domestic enquiry are to be considered as arguments under Sec. 11(A) of the Industrial Disputes Act, 1947 and the same are considered.

7. The points arise for determination are:

- I. Whether the impugned order dated 29.11.2006 removing the workman from service is legal and valid?
- II. Whether the workman is entitled for relief of reinstatement into service and other consequential reliefs sought for?
- III. To what relief the workman is entitled for?

8. Point No.1:

The workman is attacking the impugned order mainly on the ground that the charge sheet is appearing to be a conclusion of the Disciplinary Authority and speaks prejudging the entire issue even before calling for the examination of the workman. To verify whether this contention is correct or otherwise, charge sheet is perused. On such perusal, it is found that this contention is not at all sustainable. The charge sheet contains only allegations and basis for the said allegations is supplied to the Petitioner in annexure-I, annexed to the charge sheet. Thus, the contention of the workman that charge sheet itself is a conclusion of the Disciplinary Authority and it speaks prejudging the entire issue, cannot be accepted.

9. It is the other contention of the workman that the entire issue is prejudged and enquiry has been reduced as an empty formality as can be seen from the manner in which it was conducted. To verify the correctness or otherwise of this contention, the enquiry proceedings produced before this court have been perused, apart from perusing the enquiry report. As can be seen from the same at every stage of the enquiry proceeding the workman has been given due opportunity to participate. There is not violation

of principles of natural justice in this case. The workman has elaborately cross examined all the witnesses examined for the Management. Further, he was given opportunity to place his defence evidence and he examined five witnesses in all as DWs 1 to 5. A perusal of the enquiry report clearly shows that not only the evidence of Management but also that of the defence was duly considered by the enquiry officer while arriving at, his findings. Therefore, the contention of the workman that the enquiry conducted in this case is reduced to an empty formality, can not be accepted.

10. Not only the salient features of the evidence of Management but also that of the defence of the workman and further the respective arguments of the Management as well as workman were duly considered by the enquiry officer, as can be seen from the material on record. It can be seen that the findings of the enquiry officer are not at all pervert. Considering the evidence which could be brought on record against the workman the said findings can not be taken as unsubstantiated. There is ample evidence brought on record regarding the involvement of the workman in the theft and fraud committed against the Management. If some other persons are also involved in the same, and some other crucial evidence also available but the same was not brought on record like the evidence of Sri P.N.A. Naidu, the same will not exonerate the workman, when the evidence already made available on record is sufficiently establishing his guilt. The question to be gone into is whether the findings given against him by the enquiry officer are not having any support from the evidence made available on record. As already observed above, a perusal of the material on record clearly discloses that there is sufficient evidence available on record which can give rise to a finding that the workman is guilty of the fraud, theft and misconduct alleged against him. The evidence adduced on record for Management is independent and dispassionate in nature. This can be said so since, as can be seen from the record it is not the contention of the workman that either of the witnesses examined for Management got any personal grudge against the workman.

11. There is ample evidence against the workman made available on record which bring home his guilt. This evidence has been dispassionately considered by the enquiry officer in the light of various contentions raised for the defence of the workman and after scrutinizing and analyzing the same, came to the conclusion that the workman is guilty of the charges levelled against him. The contention of the workman that the contradictions in the evidence of Management have been ignored by the enquiry officer is not correct. Whatever contradictions which are there, they have been considered duly. The contentions raised by the workmen during the course of enquiry have been duly enumerated and have been dealt with in the enquiry proceeding. The various circumstances like the

mobile call details secured in the case and the persons among whom the calls were made were all duly considered. There is direct evidence adduced on record regarding involvement of the workman in the incident of theft. The witnesses have duly identified him. The contentions raised contra are not correct. Thus, the findings of the enquiry officer do not warrant any interference.

12. The findings arrived at by the enquiry officer are supported by due reasons, as can be seen from the enquiry report. The statement of the witnesses recorded in the presence of the workman during the course of domestic enquiry alone were considered by the enquiry officer while coming to various conclusions in the enquiry. Therefore, the principles laid down in the cases of *Valli Kumari (2010) 2 SCC 497* and *A C Ravindran Vs High Court of A.P. 2011(2)ALD 275 (Division Bench)*", relied upon by learned counsel for the workman are not helpful to his case. As can be seen from the enquiry report statement of any witness recorded during the preliminary enquiry has not been relied upon while drawing conclusions in the matter therefore, the principles laid down in the case of "*Champaklal, Vs. Union of India reported in AIR 1964 SC 1854*" relied upon for the workman is also not applicable to the facts of this case. One can not dispute with the principle that once regular enquiry is held, the preliminary enquiry loses its importance and evidence adduced during preliminary enquiry can not be used in regular enquiry. That does not mean the evidence gathered during preliminary enquiry can not at all be brought on record during regular enquiry. It can be brought on record by proving the facts regarding which the said evidence pertains, afresh in the presence of the charged employee. In present case, what ever evidence which is brought on record during the course of the enquiry and in the presence of the workman alone has been considered by the enquiry officer for arriving at various conclusions in his enquiry report. Thus, the principles laid down in the cases of "*Narayana Dattatreya Ramathirtakar Vs. State of Maharashtra reported in (1997) 1 SCC 299* and *Nirmala J Jala Vs. State of Gujarat reported in 2013 (4) SCC 301*", relied upon for workman are also not applicable to the facts of this case.

13. As can be seen from the material on record after receiving the enquiry report, the Disciplinary Authority has supplied copy of the same to the workman and called for his remarks. The workman submitted his remarks dated 5.12.2006. Thereafter, the impugned punishment order dated 29.11.2006 has been passed by the Disciplinary Authority, removing the workman from service. This order is clearly showing that the Disciplinary Authority has gone through the entire record and considering the grave nature of the charges which are established against the workman, passed the impugned order.

14. The charges leveled against the workman and which are proved against him clearly establish a very grave misconduct. As per said established charges the workman

has committed theft of the property of the Management by playing fraud. It amounts to grave misconduct. For such fraudulent behaviour removal of the workman from service is a very much appropriate punishment. Therefore, it can not be said that the punishment awarded is in any way disproportionate to the charge proved against the workman.

15. In view of the fore gone discussion it can safely be held that the impugned order dated 29.11.2006 is legal and valid and is not liable to be interfered with in any manner.

This point is answered accordingly.

16. Point No. II:

In view of the finding given in Point No. I workman is not entitled for any of the reliefs sought for.

This point is answered accordingly.

17. Result:

In the result petition is dismissed.

Award passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 3rd day of January, 2014.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 13 फरवरी, 2014

का०आ० 824.— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसूर मिनरल्स लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बंगलूर के पंचाट (संदर्भ संख्या 16/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/2/2014 को प्राप्त हुआ था।

[सं० एल-29012/54/2003-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 13th February, 2014

S.O. 824.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 16/2004) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mysore Minerals Limited and their workman, which was received by the Central Government on 11/2/2014.

[No. L-29012/54/2003-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE****DATED** : 2nd January, 2014**PRESENT** : Shri S.N. Navalgund,
Presiding Officer**C. R. No. 16/2004****I Party**Sh. B.M. Lakshmaiah,
S/o Late Mudalagiri, Near
Doddimane Colony,
Bageshpura and Post,
Arasikere Taluk,
Hassan-573 162.**II Party**The Managing Director,
Mysore Minerals Limited,
No. 39, M.G. Road,
Bangalore-560 001.**APPEARANCES****I Party** : Shri B.N. Byrappa,
Advocate**II Party** : Shri N. Ganesh,
Advocate**AWARD**

1. The Central Government vide order No. L-29012/54/2003-IR(M) dated 13.02.2004 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following schedule:

SCHEDULE

"Whether the management of Mysore Minerals Limited is justified in (1) Cancelling the relieving order already issued (2) Issuing Charge Sheet and conducted an enquiry against an employee already relieved and holding him guilty of unauthorised absence (3) not making payment of dues to Sri B.M. Lakshmaiah on his reliving from duties? If not to what relief the workman is entitled to?"

2. On receipt of the reference while registering it in C.R. 16/2004 when notices were issued to both the sides they entered their appearance through their respective advocates and claim statement of the I Party came to be filed on 01.06.2004, whereas, the counter statement of the II Party on 23.02.2005.

3. The I Party in his claim statement alleges that he who was working as a Labour/Mazdoor in Mysore Minerals Limited in Shantigram, Near Dumagere Village and on introduction of Voluntary Retirement Scheme by the II Party during August/September, 1998 he submitted his application seeking voluntary retirement and the same was being accepted by the II Party he was relieved from the duty w.e.f. 31.10.1998. It is further alleged that on acceptance of Voluntary Retirement Scheme and relieving

him on 31.10.1998 the II Party had not settled or paid all the service emoluments and benefits to him and now the II Party has come out with a version that he was not entitled for voluntary retirement and his application was wrongly considered and that letter was sent to him to report for duty which is not in fact received by him and II Party is also further claiming that he was issued with a show cause notice to report for duty within 7 days which also in fact not received by him and that II Party is claiming that he has remained absent unauthorisedly as such Domestic Enquiry was initiated against him in which he was informed that he should report for duty and that later I made a statement that I am unable to continue the service and is interested in the Agricultural work as such I have been removed from service on the basis of the said letter which in fact he has not submitted at all. Thus, he has submitted that he is entitled for all the service benefits consequent to acceptance of his voluntary retirement as per the company's rules and regulations. Inter alia, in the counter statement filed by the II Party it is contended the I Party who was working as Mazdoor in its Dumagere Granite Quarry situated in Hassan Taluk had remained absent to the duty unauthorisedly from 19.08.1998 and in the meantime on its introduction during August/September, 1998 he submitted an application under the said scheme seeking voluntary retirement and on the basis of that application he was permitted to retire w.e.f. 31.10.1998 along with others who opted for voluntary retirement under the said scheme but subsequently on rescrutinization of all the applications it was found that the I Party had not completed 15 years of Service which was mandatory was not eligible for opting for the voluntary retirement scheme and same was erroneously accepted, the II Party had directed the quarry manager on 02.11.1998 to call back him to duty with immediate effect and accordingly the Manager, Dumagere Granite quarry vide his memo dated 02.11.1998 had directed him to report to duty immediately duly intimating him that the order issued relieving him from the duties w.e.f. 31.10.1998 has been withdrawn and as he failed to report to the duty another memo dated 07.11.1998 was sent to him directing to report to the duty immediately for which also he did not respond. It is further contended since the I Party continued to remain absent unauthorisedly the Manager, Dumagere Granite Quarry issued a Show-cause Notice dated 12.12.1998 directing to report for duty within 7 days along with explanation for unauthorised absence further cautioning in case he failed to report for duty he would be dismissed from service. It is further contended the said show cause notice was being returned unserved with an endorsement "Refused return to the Sender" the Manager, Ordered for a Domestic Enquiry by appointing Sh. K.S. Umesh, Assistant Executive Engineer (Electrical) Unit, Hassan and the said Enquiry Officer securing the presence of the I Party on his admission of the guilt of staying away from duty from 02.11.1998 with a request to extend him a final opportunity to report for duty. Accordingly a report was being submitted

considering his request in the enquiry and on humanitarian grounds he was directed to report to the duty *vide* memo dated 06.10.1999 but as he did not responded to it finally one more show cause notice was issued to him from the Head office calling for explanation within 10 days from the date of receipt of notice as to why he should not be dismissed from the company's service for his unauthorised absence from duty since 02.11.1998 and to that notice a reply was sent through his advocate stating that he being aged is not in a position to do the work in mine and he has been engaged in Agricultural activities and is not interested to work as Mazdoor in the mine. On the basis of that reply holding him guilty of acting of staying away from duty from 02.11.1998 which amounts to serious misconduct as defined under clause 11(2)(e) of the Certified Standing Orders of the II Party which attracts major penalty, he has been dismissed from duty w.e.f. 10.04.2000. Thus, the II Party has prayed for rejecting the reference.

4. After completion of the pleadings my learned predecessor while framing a Preliminary issue as to whether the Domestic Enquiry conducted by the II Party against the I Party is fair and proper called upon the II Party to lead evidence first on the said issue. The learned advocate appearing for the II Party while filling the affidavit Sh. Govindappa K. Y. Office Superintendent of the II Party and SK Umesh the Enquiry Officer of the Domestic Enquiry, later giving up the affidavit evidence of Govindappa K. Y. Office Superintendent further examining K. S. Umesh, Enquiry Officer on oath got exhibited Circular dated 20.07.1998; application by the I Party for Voluntary Retirement Scheme; Show cause Notice issued to the I Party; Enquiry Report; Second Show cause notice issued to the I Party; order the Disciplinary Authority; Legal notice issued by the I party to the II Party; Reply given by the II Party to the I Party as Ex M-1 to Ex M-9, Inter alia, the I Party filed his affidavit in lieu of his evidence and after his cross-examination his side was being closed my learned predecessor after hearing the arguments of the learned advocates on both sides when the case was posted for order on the Preliminary Issue to 20.11.2007 on that day while observing:

"After having gone through the records, more particularly, the point of the reference schedule, it appears to me that the question with regard to the validity and fairness or otherwise of the enquiry proceedings is required to be determined subject to the finding to the recorded by this tribunal on the point as to whether the management was justified in cancelling the relieving order and in issuing the charge sheet and conducting an enquiry itself, against the first party who was said to be already relieved from duties. Incase, the management justified its action in cancelling the relieving order already issued and in issuing the charge sheet and then conducting the enquiry, then only the question of the first party

remaining absent from duty will arise so as to determine the next question as to whether the enquiry conducted against the first party for his remaining absent from duty was fair and proper or not. Therefore, the question with regard to the validity and fairness or otherwise of the enquiry proceedings is ordered to be deferred till the management justify its action in cancelling the relieving order already passed in favour of the first party."

Deferred the consideration of the Preliminary Issue and called upon the II Party to lead evidence on the first point of reference and as the II party did not avail the said opportunity posted the matter for evidence of I party on the said first point of the schedule. The I Party pursuant to the posting the case for his evidence the first point of the schedule filed his affidavit in lie of his evidence on 31.12.2010 and examined himself on oath as WW 1 and got marked Relieving order dated 31.10.1998; Office copy of the notice issued by was dated 30.09.1999; copy of the proceedings of the discussion made with the Labour Union Leaders in the chamber of Managing Director, Mysore Minerals Limited on 17.12.1998; letter of Manager, Mysore Minerals Limited, Dumagere; Report of Failure of Conciliation of ALC(C), Hubli dated 27.11.2003 as Ex W-1 to Ex W-5 and subjected himself for cross-examination by the learned advocate for the II party and closed his side. Thereafter when the matter was posted for arguments on 20.04.2011 the counsel for I party filed his written arguments but since inspite of further grant of two adjournments the II Party counsel did not address oral arguments or filed written arguments matter came to be posted for Award.

5. In view of the facts narrated by me above now the point that arises for my consideration is:

Whether the management by Mysore Minerals Limited is justified in cancelling the relieving order already issued to Sh. B.M. Lakshmaiah and is not making payment of dues on his relieving from duties.

6. On appreciation of the pleadings, oral and documentary evidence brought on record by both the sides with the written arguments submitted for the I Party my finding on the above point is in the Negative for the following.

REASONS

7. There is no dispute Sh. B.M. Lakshmaiah (hereinafter referred as I Party) was working as Mazdoor at Dumangere Granite Quarry of the Mysore Minerals Limited (hereinafter referred as II Party) and that on II party introducing voluntary retirement scheme 1998 copy of which has been produced at Ex M-1 the I party submitted his application dated 21-08-1998 seeking voluntary retirement as per Ex M-2 and accepting the said application he was relieved from duty w.e.f. 31.10.1998 without making payment of any benefits payable on acceptance of voluntary retirement

application and relieving. It is claimed by the II Party that subsequent to acceptance of the voluntary retirement application of the I party when it restructinized all the application received for voluntary retirement it was found that since I Party had not completed 15 years of service on the date of filing of the application accepting his voluntary retirement application was erroneous as such it directed its Manager, Dumagere Granite Quarry to call upon the I Party to report to duty intimating that acceptance of his voluntary application is recalled and accordingly he issued Memo to him dated 02.11.1998 informing the same through Registered Post and the same returned with shara "Refused return to sender". It is true that as per the voluntary retirement scheme 1998 introduced by the II Party copy of which is produced at Ex M-1 It is made applicable to regular permanent employees who had put in 15 years of service and completed 35 years of age and not attained 56 years of age as on the date of the application and who has been brought under the identified categories if eligible for Voluntary Retirement Scheme and as the I party in his cross-examination has categorically stated that he joined the company services on 13.10.1983 and the same date has been mentioned in his application seeking voluntary retirement which is at Ex M-2 in Column No. 11 the date of joining the service being 13.10.1983 and as the date of application for voluntary retirement is dated 21.08.1998 as on that date his services were short by one month 22 days for completion of 15 years of service. But when his voluntary retirement application is accepted and he is relived on 31.10.1998 as on that day i.e., the date of relieving him from service he having had completed 15 years of service, the II Party without issuing him show cause notice as to why accepting his voluntary retirement application and relieving him from duty w.e.f., 31.10. 1998 should not be recalled and he should be ordered to report to duty taking one sided decision to recall the order accepting his voluntary retirement application and relieving him from duties is unsustainable. Though as per clause 4 of Voluntary Retirement Scheme 1998 copy of which is produced at Ex M-1 one has to put in 15 years of service as on the date of the application of II Party while accepting the application of the I Party dated 21.08.1998 on which date he was short by one month 22 days to complete 15 years of service having ordered to relive him w.e.f. 31.10.1998 on which date he completes 15 years of service its one sided decision to recall the order accepting his Voluntary Retirement Scheme application and directing him to report to the duty is unsustainable and not justified and is liable to pay him all the benefits due to be paid on acceptance of the Voluntary Retirement Scheme application. Accordingly, while answering the point raised by me in the negative, I pass the following:

ORDER

The reference is allowed holding that the management of Mysore Minerals Limited in cancelling the relieving order already issued to Sh. B.M. Lakshmaiah accepting the Voluntary Retirement Scheme

application and not making payment of dues to him is not justified and that he is entitle to all the benefits that was due to his on acceptance of his Voluntary Retirement Scheme application and relieving him from duties w.e.f. 31.10.1998. The II Party shall work out dues payable to Sh. B.M. Lakshmaiah and pay him within one month from date of publication of notification failing which liable to pay interest to him on that sum @ 12% p.a.

(Dictated to U.D.C. transcribed by him, corrected and signed by me on 2nd January 2014).

S. N. NAVALGUND, Presiding Officer

नई दिल्ली, 13 फरवरी, 2014

का०आ० 825.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भिलाई स्टील प्लांट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 12/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/2/2014 को प्राप्त हुआ था।

[सं० एल-26012/1/2003-आई० आर० (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 13th February, 2014

S.O. 825.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 12/2010) of the Central Government Industrial Tribunal/Labour Court, Nagpur now as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Bhilai Steel Plant and their workman, which was received by the Central Government on 11/2/2014.

[No. L-26012/1/2003-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE SHRI J.P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/12/2010

Date: 19.09.2013.

Party No. 1: The Managing Director,
Bhilai Steel Plant,
PO: Bhilai (Chhattisgarh), Distt. Durg

Party No. 2: Shri Gautam Ghosh (Representative),
III-A Type Qr. No. 11/A, Opposite
Rajhara Hospital Dalli Rajhara,
Durg. (Chhattisgarh)

AWARD

(Dated: 19th September, 2013)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act") in

short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Bhilai Steel Plant and the 52 Workmen, (List enclosed) for adjudication, as per letter No. L-26012/1/2003-IR (M) dated 08.11.2010, with the following schedule:

"Whether the action of the management of Bhilai Steel Plant in terminating the services of Shri K.C.K. Nair and other workmen (List enclosed) is just and legal? What relief the workmen are entitled and from which date?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, twenty five applicants out of the 52 applicants ("the applicants" in short), filed the statement of claim and the management of Bhilai Steel Plant, ("Party No. 1" in short) filed their written statement.

The case of the 25 (twenty five) applicants as presented in the statement of claim is that the Party No. 1 employed about 208 persons including them, who were the children of its employees in the name of "unpaid trainees" with the condition that during the period of the training, they would not be paid any wages etc., but they were orally given assurance that they would be absorbed in the respective vacancies later on and their applications were scrutinized and they were called for interview and they were selected for different trades and were posted to the respective sections and were made to work with their other workers, even in shift rotation alongwith production workers and after 1 1/2 years i.e. in 1993, they were terminated, so they approached the local trade unions and political leaders etc several times, but all their efforts went in vain and Party No.1 did not take any positive action for their reinstatement, so they approached the Asstt. Labour Commissioner (Central), Raipur ("the ALC" in short) in 2002 with the industrial dispute and during the conciliation proceedings, the Party No.1 took several objections to their status as workmen, the nature of the complaint and delay in raising the dispute and even though Party No. 1 was asked by the ALC to produce their 'B' Registers, Party No. 1 did not produce the same and lastly, the conciliation proceedings ended in failure and though the ALC submitted the failure report to the Central Government, the Central Government refused to refer the matter for adjudication, on the grounds that they failed to produce the appointment orders and they were not appointed by Party No. 1 and they approached the Hon'ble High Court, Bilaspur with a prayer to direct the Central Government to refer the dispute for adjudication, by filing writ petition 216/2006 to decide the matter on merits and the Hon'ble Court directed to refer the matter to the Tribunal for adjudication. (It is to be mentioned that the Hon'ble High Court of Chhattisgarh at Bilaspur by order dated 06.09.2010 in the writ petition No. 2721/2003 directed the Central Government to make the reference and not in writ petition 216/2003 as claimed by the applicants.) It is further pleaded by the applicants that one T. Koshy,

who was one of the petitioners before the Hon'ble High Court, during the pendency of the writ petition committed suicide and as such, his wife, Bindu Koshy is to be considered for giving appointment in his place.

The applicants have prayed for a direction to Party No.1 for their reinstatement with continuity and payment of reasonable *ex-gratia* in lieu of back wages and allowances.

3. It is necessary to mention here that the reference was made by the Central Government in respect of 52 applicants, but the statement of claim was filed only on behalf of 25 applicants. The 27 applicants namely, (1) Ajay Kumar Pali (2) Lalit Jodia, (3) Vijay Dixit, (4) Martand Singh, (5) Gajendra Sahu, (6) Nand Kumar Dandsena, (7) S.N. Asaraf, (8) Binny Verghese, (9) Mannmohan Sharma, (10) Vijay Kumar Sharma, (11) Mahendra Prajapati, (12) Balluram, (13) Sunil Kumar Sonwant, (14) Mohan Sahu, (15) Kirtanlal, (16) Jacob Verghese, (17) Kedarnath, (18) Vidyut Kumar Mukharje, (19) Eshwarlal Patel, (20) Sarad Kumar Sahu, (21) Raju Vinayak, (22) Mahesh Pandey, (23) Ram Singh, (24) Lakhan Kumar Sahu, (25) Ajay Ashtikar, (26) Pardeshi and (27) Sapan Kumar Benjamin did not file any statement of claim.

It is well settled that whenever a workman raises a dispute challenging the validity of the termination of the service, it is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or file written statement or produce evidence, the dispute referred by the government cannot be answered in favour of the workman and he would not be entitled to any relief.

As in this case, the twenty seven applicants named above did not file any statement of claim or produce any evidence, they are not entitled to any relief. Hence, the reference is answered against the 27 applicants named above and it is held that they are not entitled to any relief.

4. It is also necessary to mention here that during the pendency of the reference, for adjudication, i.e. 02.11.2012, two of the applicants, out of the 25 applicants, on whose behalf the statement of claim was filed, namely, Jairam and Jagannathan (whose names are at serial nos. 44 and 45 in the list of the applicants attached to the letter of reference) filed separate affidavits stating that as they have already got employment elsewhere, they do not want any employment in Bhilai Steel Plant and their name be struck off from the reference. In view of the affidavits filed by applicants, Jairam and Jagannathan, it is held that there is no dispute between Party No.1 and the said two applicants and the applicants, Jairam and Jagannathan are also not entitled to any relief.

Now, the reference is only to be adjudicated in respect of the rest twenty three applicants, namely, (1) Gautam Bose, (2) Devbrat Chakraborty, (3) Prem Shankar Singh, (4) Dhanraj Singh, (5) Babloo Das, (6) K.M. Sarvanan, (7) Bharasaram, (8) Appalraju, (9) Indra Vijay Kumal, (10) Binda

(wife of deceased K.T. Koshi), (11) Chaman Sapate, (12) Jogendra Singh, (13) Sapu Kumar, (14) Ramsai Dewangan, (15) Anil Kumar Dakate, (16) Kuldeep Kumar, (17) Kanhaiya, (18) Nakulram, (19) Kumar Singh, (20) Zaffar Iqbal, (21) Chandrakant Bharadwaj, (22) Brajesh Kumar and (23) Satdeo.

5. In the written statement, Party No.1 has pleaded *inter-alia* that it is one of the units of the Steel Authority of India Limited and it has a recruitment policy for appointment and appointments are made with prior approval of the company, after following government's directions, which include submission of requisition to the local employment exchange, consideration for reservation of S.C., S.T. and O.B.C. candidates, besides scrutiny of eligibility of sponsored candidates for appointment by conducting test/interview and as goodwill to the wards of its employees, it offered vocational training, on their request with the condition of their executing a bond and in Para 2 of the said bond, it was clearly mentioned that the management would not owe any responsibility whatsoever, for providing any job to such children/claimant and the training being imparted would be as a gesture of goodwill and the applicants were never appointed as workmen in its services and neither any appointment order nor any termination order was issued by it to the applicants and as there was no employment, there was no question of termination and the applicants cannot be called employees or workmen and as such, the dispute itself is not maintainable under law.

The further case of Party No. 1 is that the applicants were engaged for training for the designated trades in the Mines and Civil Appeal No. 1714/2007 and writ petition 258/2003 were filed before the Hon'ble High Court of Chhattisgarh by Shankarlal and Several others jointly and Shrilal respectively, seeking relief of employment against it on the same facts and grounds and the same were dismissed on 25.04.2007 and 19.01.2007 respectively and assurance was never given to the applicants that they would be given employment later on and they were given practical training in different trades as a goodwill gesture and after completion of practical training, they were given training completion certificate and the name of the applicants were registered in the "B" Form register in accordance with the provisions of Mines Act and the same does not mean that they were employed with it and the applicants were vocational trainees and shri K.A. Raju, who has signed the statement of claim is neither a claimant nor a co-worker or office bearer of a registered trade union, hence he has no locus standi to represent the claim on behalf of the applicants and the claim initiated by shri K.A. Raju is nonest in the eye of law and the applicants are not entitled to any relief.

It is necessary to mention here that after filing of the statement of claim, Shri K.A. Raju expired and on the application of applicants, Shri Babloo Das, one of the applicants was allowed to represent himself and the other applicants.

6. In the rejoinder, the applicants have denied the pleadings made by the Party No. 1 in the written statement and have further pleaded that the plea of delay and plea that they were not workmen raised by Party No. 1 were duly considered by the ALC and the reference was made as per the direction of the Hon'ble High Court and they were directly employed in production related job alongwith the regular staff and they were workmen and they are entitled for the reliefs as claimed in the statement of claim.

7. To prove their respective claims, both the parties have adduced oral evidence, besides placing reliance on documentary evidence.

On behalf of the applicants, twenty three witnesses have been examined in total, out of whom, 22 witnesses are the applicants and the rest one witness is shri P.E. Anyapan, a retired employee of Party No. 1.

Only one witness, namely, Partha Jha has been examined on behalf of Party No. 1.

8. The examination-in-chief of the witnesses examined by both the parties are on affidavit.

So far the evidence of the twenty two applicants is concerned, the contents of their affidavits are replica of each other, except the name of the trade and the period of their training. In their examination-in-chief, all the applicants have stated that being selected for undergoing training, as sponsored by the management of Dalhi Rajhara Mines, they worked for about two years in different trades and in their appointment letters, they were designated as "Non Stipendary Vocational Trainees" and they were detailed to work in different trades and offices and their names were included in "B" Form Register as employee of Party No. 1 and they were not given any type of training, but they were engaged to do the work of the company alongwith the regular employees and they worked as skilled, Semi skilled and general workers for production work of the company and the only difference between them and the regular employees of Party No. 1 was that they were not given the salary, safety equipments and leave etc., as given to the regular employees and being asked by them, they were assured by the officers of Party No. 1 to work properly and that Party No. 1 would take care of them and they were terminated from services without any payment or without issuance of any prior notice, which was quite illegal.

In their cross-examination, all the twenty two applicants have categorically admitted that they were not sponsored by the employment exchange for the training and the Party No. 1 had given a circular for such training for the dependent children of the employees of the plant and accordingly, they applied for such training and they were selected by the management for the training and the dispute was raised by them in the year 2003, before the ALC and they had received letters from the management for non-stipendiary vocational training and each of them had executed bond to undergo the training and one of the conditions of the said

bond was that management would not be responsible for providing employment to the trainees as the training was as gesture of goodwill by the management and they worked in the Steel Plant alongwith the other employees as per the directions of the respective section-in-charge during the period of training and the same type of bond was taken by the management from all the trainees including themselves and Exts. M-I to M-IV are the agreement-cum-bonds executed by them.

9. Shri P.E. Anyapan in his examination-in-chief has stated that he retired from services of Party No. 1 in 1996 and he knows the applicants and the applicants were engaged in the name of giving of training in the Mines, but actually they were engaged in the work of the company and there was no scope to give them training and being asked, he was informed by the Production Manager that management would give them employment in future. However, demolishing his own evidence, in the cross-examination, he has stated that he has no relationship with the applicants and he was not marking the attendance of Babloo Das, who was working in his department, during the period of training and he cannot say the training period of Babloo and during practical training, the trainees did work with the regular workers of the concerned department and he does not remember the contents of his affidavit.

10. The only witness for the management, in his examination-in-chief has stated that as per the consistent demand made by the union of Rajhara Mine, it was decided to give practical training to the dependents eligible children of the employees in Rajhara Mine vocational Training Centre, as a gesture of goodwill and applications were submitted by such children and the eligible children were selected and the selected candidates signed and submitted the agreement-cum-bond and in para 2 of the said bond, it was clearly mentioned that management would not be responsible to provide employment to the candidates after completion of the training and it was also mentioned in the bond that the trainees would not be paid any stipend or remuneration and the applicants were never assured that they would be employed after the period of training and for giving training in the Mine to anybody, it is necessary to enter his name in the "B" Form Register and after the training period was over, certificates of training were issued to the applicants and the training was stopped.

In his cross-examination, this witness has stated that the applicants were given vocational training under Mines Vocational Training Rules and the provisions of the Standing Order of Party No.1 are applicable to its employees and during the period of training, the applicants were being given instructions regarding their respective trades and "B" Form Registers in respect of the applicants were prepared as per the Mines Act.

11. During the course of argument, it was submitted by the representative for the applicants that the case under consideration is related to Iron Ore Group of Mines of Dalli

Rajhara and in 1991, Party No. 1 introduced a training Scheme for the wards of its employees and about 200 wards of the employees including the applicants were selected and offered letters to join as "Non Stipend Practical Vocational Trainee" on execution of a Bond-cum-Agreement as prepared by Party No. 1 and on joining, all the candidates were employed in various sections of different trades of the Mines as part of the regular crew and they served the company doing production related job, till the date of their purported training, actually without training and the officers of Party No. 1 were giving them hopeful assurance of regular employment to motivate them to do the company's work and their appointment as "Non Stipend Vocational Trainee" was meaningless. It was further argued that the plea taken by Party No. 1 regarding delay in raising the dispute is not tenable and liable to be rejected, as it is well settled by the Hon'ble Apex Court that provisions of the Limitation Act are not applicable to the proceedings under the Act and the plea of the Party No. 1 that the applicants are not "workmen" is unsustainable and the applicants are "workmen" and they are entitled for the reliefs claimed in the statement of claim.

12. Per contra, it was submitted by the management representative that as a gesture of goodwill, the management of Dilli Rajhara Mines agreed with the union to impart practical training as unpaid vocational trainees to about 208 wards of the employees from 1991 to 1993 and it was made clear to all concerned including the applicants in writing that management would not own responsibility for their employment after completion of their training and the dispute was raised by the applicants after a lapse of 10 years and no explanation has been offered for such delay and therefore, the stale claim should not have been entertained for adjudication. It was further submitted that the applicants are not workmen and as such, the dispute raised is not an industrial dispute and the applicants were never appointed as "workmen" in the service and there was no employment and as such question of termination does not arise and there was never any employer-employee relationship between the applicants and Party No. 1 and as such, the reference is not maintainable and the applicants are not entitled to any relief.

13. First of all, I will take up the submission made by the Party No. 1 that due to inordinate delay in raising the dispute, the claim should not have been entertained.

In this regard, it is to be mentioned here that it is settled beyond doubt in a number of decisions by the Hon'ble Apex Court that the provisions of Limitation Act, 1963 are not applicable to the proceeding under the Act and that the relief under it cannot be denied to the workman, merely on the ground of delay and the plea of delay, if raised by the employer is required to be proved as a matter of fact, by showing the real prejudice and not as a merely hypothetical defence.

In this case, admittedly, there is a delay of about ten years in raising the dispute before the ALC by the applicants. The Party No. 1 has also taken a plea that there was unexplained inordinate delay in raising the dispute. However, no plea has been taken by the Party No. 1 that due to such delay, actually any prejudice was caused to it. It is found from record that the plea of delay has been taken by Party No. 1 merely as a hypothetical defence. Hence, the contention raised by the management representative in this regard fails.

14. The next contention raised by the Party No. 1 is that the applicants were not workmen and they were "Non Stipend Vocational Trainees" and they were never appointed or employed by it in the production related jobs and as goodwill gesture, they were given training after their execution of a Bond for such training, in which it was clearly mentioned that it would not be responsible for providing employment to the trainees including the applicants and there was no employer and employee relationship between it and the applicants and for that the dispute cannot be termed as industrial dispute.

It is to be mentioned here that the Hon'ble High Court of Chhattisgarh, Bilaspur by order dated 06.09.2010, in writ petition No. 2721/2003 have been pleased to observe that the Industrial Tribunal has the jurisdiction to decide the question as to whether the applicants are workmen or not, in view of the stands taken by the applicants that Party No. 1 engaged them in production related jobs from the date of their joining till their termination.

It is the admitted case of the applicants that they joined as "Non Stipend Vocational Trainees" with Party No. 1 and during the entire period of their training, no wages or stipend was paid to them.

Section 2 (c) of the Standing Orders for the Mines and quarries of the Bhilai Steel Project says that "Employee" means a workman as defined in the Industrial Employment (Standing Orders) Act, 1946.

Section 2 (i) of the Industrial Employment (Standing Orders) Act, 1946 says that "wages" and "workman" have the meaning respectively assigned to them in clauses (rr) and (s) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947).

According to section 2(s) of the Act, "workman" means any person (including an apprentice employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied and for the purpose of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of that dispute or whose dismissal, discharge, retrenchment has led to that dispute, but....."

In this case, it is clear from the materials on record and the own admission of the applicants and their witness that the Party No. 1 as a gesture of goodwill devised a vocational training programme for the wards of its employees, as per the demand of the local union and the applicants and other wards of the employees applied to undergo the training and about 208 persons including the applicants were selected for the training and all of them executed bonds like Exts. M-I to M-IV, in which the terms and conditions of the training were clearly mentioned and it was also clearly mentioned that the management would not be responsible to employ the trainees. It is also found from the materials on record that the applicants were given training including practical training in different trades ranging for a period of two years and after the period of training was over, training certificates were given to them. It is found that the applicants were not employed to do any work for hire and reward. Hence, the applicants cannot be said to be workmen as defined u/s. 2(s) of the Act.

As it is clear from the materials on record that the applicants were vocational trainees and they were not apprentices and they were not employed to do any work for hire and reward and they were also not paid any stipend during the period of training and they worked in the Steel Plant alongwith the other employees as per the directions of the respective section-in-charge during the practical training, the provisions of clause 3(d) of the Standing Orders of Party No. 1 or the provisions of Apprenticeship Act, 1961 are not applicable to their cases. The inclusion of the names of the applicants in "B" Form register was done by Party No. 1 as per the provisions of Rules 48 and 77 of the Mines Rules. It is found that maintenance of "B" Form register for every person including the trainees engaged in the mines is a must as per the Mines Act and Rules. So, inclusion of the names of the applicants in "B" Form register is of no help to the applicants to show that they were employed by Party No. 1 in the mine as workmen. In view of the facts and circumstances of the case in hand, with respect, I am of the view that the decisions of the Hon'ble Courts cited by the parties have no clear application.

As it is held that the applicants are not workmen, the dispute raised by them cannot be said to be industrial dispute. The end of the training period of the applicants also cannot be said to be termination of their services. So, there was no question of compliance of section 25-F of the Act. Hence, it is ordered:—

ORDER

The reference is answered against the applicants. The applicants are not entitled to any relief.

J.P. CHAND, Presiding Officer

नई दिल्ली, 13 फरवरी, 2014

का०आ० 826.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओरिएण्टल इन्शुरन्स कंपनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 01/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/2/2014 को प्राप्त हुआ था।

[सं० एल-17012/45/2007-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 13th February, 2014

S.O. 826.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 01/2008) of the Central Government Industrial Tribunal/Labour Court, Nagpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oriental Insurance Company Limited and their workman, which was received by the Central Government on 11/2/2014.

[No. L-17012/45/2007-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE SHRI J.P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/01/2008

Date: 01.10.2013

- Party No. 1(a)** : The Dy. General Manager,
Oriental Insurance Co. Ltd.
Mayfairs Towers, 1st Floor,
Pune-Mumbai Road, Wakde Wadi,
Pune
- Party No.1(b)** : The Assistant General Manager,
Oriental Insurance Co. Ltd.
Mayfairs
Towers, 1st Floor, Pune Mumbai
Road, Wakde Wadi, Pune
- Party No. 2** : Shri Prakash Shankar Shende,
R/o Akot Fall, Ambedkar Nagar,
Akola
Akola (M.S.)

AWARD

(Dated: 1st October, 2013)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short) the Central Government has referred the industrial dispute between the employers in relation to the management of Oriental Insurance Co. Ltd. and their

workman Shri P.S. Shende for adjudication, as per letter No. L-17012/45/2007-IR(M) dated 02/09.01.2008, with the following schedule:—

"whether the action of the Assistant General Manager (Disciplinary Authority) and the Dy. General Manager (appellate Authority) of the Oriental Insurance Company Ltd. is justified, legal & proper for awarding a punishment of Removal from service which shall not be a dis-qualification for further employment to the applicant workman Sh. P.S. Shende? If not, then what relief the deprived applicant workman is entitled to?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement.

It is necessary to mention here that before filing statement of claim, the workman committed suicide on 08.06.2008. So, the legal heirs of the deceased P.S. Shende, namely, Poornima (widow), Kumari Vidhya (daughter), Abhijit and Shobit (the two sons) filed an application on 10.09.2008 for their substitution and the same was allowed.

The legal heirs of the deceased P.S. Shende filed the statement of claim challenging the legality of the termination of the deceased workman and to give them all consequential benefits.

3. The party No. 1 filed the written statement denying the allegations made in the statement of claim and pleading *inter-alia* that the petitioners are not entitled for any relief.

4. On 01.10.2013, the date on which the reference was fixed for cross-examination of petitioner, Poornima, an application supported with affidavit was filed on behalf of the petitioner alongwith two pursives to close the reference and to dispose of the same, on the ground that they do not want to proceed with the same. Copies of the application and pursives were served on the advocate for the management, who made "no objection" on the same.

As the petitioners did not want to proceed with the case, in the interest of justice, the application was allowed.

5. As the petitioners, who have raised the dispute and have also filed the statement of claim don't want to proceed with the reference, the reference is liable to be dismissed without grant of any relief to the petitioners. Hence, it is ordered:—

ORDER

The reference is dismissed as not pressed by the petitioners. The petitioner are not entitled to any relief. No leave is also granted to the petitioners to raise the dispute again or to revive the present reference. The application supported with the affidavit and pursives filed by the petitioners are made part of the award.

J.P. CHAND, Presiding Officer

नई दिल्ली, 13 फरवरी, 2014

का.आ. 827.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भिलाई स्टील प्लांट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 144/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/2/2014 को प्राप्त हुआ था।

[सं एल-29012/32/2000-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 13th February, 2014

S.O. 827.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 144/2000) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bhilai Steel Plant and their workman, which was received by the Central Government on 11/2/2014.

[No. L-29012/32/2000-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/144/2000

PRESIDING OFFICER: SHRI R.B. PATLE

The President,
Pragatisheel Mazdoor Union,
In front of Tehsil office,
PO Dalli Rajhara,
Durg (MP)

... Workman/Union

Versus

General Manager (Mines)
Bhilai Steel Plant,
Bhilai (MP)

... Management

AWARD

(Passed on this 16th day of January, 2014)

1. As per letter dated 27-7-2000 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L 29012/32/2000-IR(M). The dispute under reference relates to:

"Whether the demand of the Pragatisheel Mazdoor Union for change of date of birth of Shri Rambharose, S/o Shri Ful Singh, employed at Dalli Manual Mines as 19-10-54 is justified? If so, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party Union submitted Statement of claim at Page 2/1 to 2/5. The case of 1st party Union is that the workman Shri Ram Bharose, S/o Ful Singh was working in Dalli Mines, Gang No. 94, P. No. 873693, the date of birth of said workman is 19-10-1954 as recorded in Death-Birth Register of Police Station Thana Dondi. That date of birth of workman has been recorded in Birth Register of Police Station, Thana Dondi for the year 1954. This date of birth has also been recorded in declaration and nomination for Provident Fund. Workman requested employer for recording his date of birth 19-10-54 but he was informed that he joined as contractual worker from 7-4-74 and subsequently regularized as DPR from 31-5-96. That in Form B register, his date of birth is recorded as 2-4-47. Same date of birth was recorded at the time of Medical Examination signed by him. Union submits that workman is illiterate and not conversant to the language. That the signature of workman on medical card have been obtained having attended the medical examination. Subsequently workman raising dispute about his date of birth with Labour Welfare Officer. When management demanded documents regarding his date of birth, the copy of birth register maintained at Thana Dondi, Distt. Durg was submitted. In declaration form of Provident Fund, workman has submitted. In declaration form of Provident Fund, workman has submitted his date of birth was 19-10-54. Said date was accepted. It is further submitted that the management of Bhilai Steel Plant not accepting his date of birth as 19-10-54 has denied his date of birth 2-4-47. The dispute was raised before ALC. On such ground Union is prying for correction of date of birth of workman Ram Bharose as 19-10-54 instead of 2-4-47.

3. Management filed Written Statement at Page 6/1 to 6/7. Management denied that the date of birth of workman Rajbharose is 9-10-54. Management submits that Rambharose was initially working as contract worker from 2-4-75 in the captive mines in Rajhara Tehsil. That as per provisions of Mines Act, Form B register is maintained. The date of birth of workman is recorded 2-4-47. Said date of birth was accepted by management for all purpose. The date of birth of Rambharose is mentioned in Declaration Form for Provident Fund as 19-10-54 is not acceptable. All other material contentions of workman that his date of birth is 19-10-54 as per entries in Birth Register in Thana Dondi are denied. IInd party reiterated that date of birth of workman is 2-4-47 as recorded in record mentioned as per Mines Act. IInd party refers to ratio held in various cases and emphasized that workman is not entitled for correction of his date of birth. IInd party prays for rejection of claim of workman.

4. Union has filed rejoinder at Page 7/1 to 7/6 reiterating its contentions that date of birth of workman Rambharose as per entry in birth register is 19-10-54. That date of birth recorded in Declaration Form and Form B Register as 2-4-47 is incorrect. Union prays for correction of his date of birth.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|----------------------|
| (i) Whether the demand of the Pragatisheel Mazdoor Union for change of date of birth of Shri Rambharosa, S/o Shri Ful Singhy, employed at Dalli Manual Mines as 19-10-54 is justified? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | As per final orders. |

REASONS

6. Interim application for stay was rejected by my predecessor as per order dated 28-3-2006 observing that if the workman succeeds finally, he may get the consequential benefits.

7. Affidavit of workman Rambharose is filed. He has started that his date of birth recorded in death and birth register of police station is 19-10-54. That in Form B register, his date of birth is recorded as 2-4-47. In Medical Examination Form signed by him, the date of birth is sown 2-4-47. He has stated that he is illiterate person, not conversant with language. Medical Examination Form was never filled by him individually. Medical officer fills the Form. That he had not written that his date of birth was 2-4-47. In his cross-examination, he says he is illiterate and knows to sign. His statement of claim is submitted by Union. Office bearer of the Union did not explain him the contents in Statement of Claim. He also claims ignorance about contents of his affidavit of evidence. That he was employed as contract labour on 2-4-75. He was regularized on 31-5-96. He has not submitted documents to the management at that time. That document No. 2/8 was received by him from office of Birth and Death register, Durg. He has submitted said document to the management around 1990-91. He did not recollect name of the official to whom he had handed over the document. The document produced by workman is certified copy of entry in death and birth register, Thana Dondi of 1954. The date of birth is shown as 19-10-54. Name of father's Ful Singh and name of son is Rambharose. The document bears dated 31-10-90. The declaration form for nomination for Provident Fund shows date of birth of workman Rambharose as 21-20-54. Said document was submitted by workman on 24-4-93. In his further cross-examination workman claims ignorance whether entries in the service book shown to him were filled on information given by him. He has stated that his date of birth recorded by management as 2-4-47 is incorrect. That his signature was obtained on Form B Register. His name and father's name were recorded after enquiring from him. That his age was not inquired from him at the time of filling Form B. that he got knowledge very late about his age recorded in Service Book.

8. Management's witness Shri Rajesh Kumar in his affidavit of evidence has stated that workman was working as piece rated employee and he recorded his date of birth as 2-4-47. That alleged date of birth of Rambharose as 19-10-54 is not acceptable. His evidence is silent why the date of birth recorded in Birth and Death Register is not accepted. The evidence of management's witness is not cogent on what basis the date of birth of workman was recorded in service book as 2-4-47. The service book was prepared on 18-2-96. Any record was not received from the contractor by management when his service book was prepared. The Circular No. M&R-13/2004 is produced at Exhibit M-5. The guidelines regarding determination of date of birth are provided.

Para 3(ii) provides—

"No change in date of birth shall be allowed if such requests are received from employee during the last five years of their service for any reason whatsoever."

The evidence shows that workman submitted declaration for Provident fund Nomination on 12-4-93 claiming his date of birth was 19-10-54. Workman produced certified copies of entries in Birth and Death Register. His date of birth is shown as 19-10-54. As per his evidence, he has produced document around 90-92. Management did not accept his date of birth. The dispute is referred in 2000.

Clause 3(v) of guidelines provided—

"If there is a conflict between original declaration in the Attestation Form/Service Book, Employment Index Card, Personal Data form and various other documents submitted by the employee during the course of employment the declaration given in the earliest Attestation Form/Service Book, Employment Index Card, Personal Data form and various other documents and accepted by the management, shall be relied upon."

Clause 3(vi) provides.....

Clause 3(vii) provides—

"If there is a conflict between the date of birth declared by the worker in the earliest Form B of Mines and the date of birth declared subsequently in order papers/documents, the earliest document indicating the age shall be accepted."

The service book was prepared on 18-2-96 whereas declaration Form for Provident Fund was submitted on 12.4.93 earlier in time. The date of birth was recorded as 19.10.43 in Death and Birth earlier in time *i.e.* 31-10-90. As per Para 3(vii) of the guidelines, the earlier documents deserves to be accepted therefore the date of birth of workman recorded in Register of Death and Birth as 19.10.54 needs to be accepted.

9. Learned counsel for IInd party relies on bunch of judgments, copies produced on record.

"In case of Surendra Singh Versus State of MP and others reported in 2007(I) MPLJ - 286, his Lordship held correction of date of birth in service record not permissible at the fag end of service of the employee."

In present case as per Form B register, date of birth of workman is shown as 2-4-47. Dispute is raised in the year 2000 almost 7 years prior to the date of superannuation. As per Rule 3(ii) of guidelines, the enquiry during last 5 years about date of birth is not permitted. The dispute is raised before 7 years of the superannuation. Therefore the ratio in above cited case cannot be beneficially applied to case at hand.

In case of State of UP and another versus Shri Narain Upadhyaya reported in 2005(6) supreme court Cases 49. Their Lordship held challenge to the date of birth as recorded in the service book, made on the eve of retirement should not normally be entertained."

The ratio cannot be applied to present case as the dispute is raised almost 7 years before date of superannuation.

For same reasons ratio held incase of State of Tamil Nadu versus T.V.Venugopalan reported in 1994(6) supreme Court Cases 302 cannot be applied. The correction in date of birth can be entertained before 5 years of the superannuation as per rule 3(ii) discussed above. For the same reasons, ratio held in Case of G.M. Bharat Coking Coal Ltd. versus Shib Kumar Dushad reported in AIR-2001-SC-72 cannot be applied to present case.

10. Learned counsel for IInd party also relies on ratio held in:

"Case of Burn Standard Company Ltd. versus Dinabandhu Majumdar reported in 1995(4) supreme corut Cases 172. The ratio held in case relates to date of birth entered in service and leave record on the basis of voluntary declaration made by the employee at the time of appointment authenticated by him and never objected upto the fag end of service. In such circumstances, Writ Petition seeking correction of the date of birth filed at such stage shall ordinarily be not entertained."

The facts of present case are different. The dispute is raised 7 year before the date of superannuation. Rule 3(ii) of guidelines shows no change in the date of birth shall be allowed if such requests about date of birth is received before 5 years of superannuation. Therefore I did not find substance in the argument advanced by learned counsel for IInd party. For the reasons discussed above, the demand of the Union for correction of date of birth is justified. For above reasons, I record my finding in Point No. 1 in Affirmative.

11. In the result, award is passed as under:—

- (1) The demand of the Pragatisheel Mazdoor Union for change of date of birth of Shri Rambharose, S/o Shri Ful Singh, employed at Dalli Manual Mines as 19-10-54 is justified.
- (2) The date of birth of Rambharose, S/o Ful Singh employed in Dalli Manual Mines as per entries in Death and Birth Register is 9-10-54. IInd party is directed to take and allow consequential benefits to first party workman.

R.B. PATLE, Presiding Officer

नई दिल्ली, 13 फरवरी, 2014

का०आ० 828.— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भिलाई स्टील प्लांट के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 153/2000) प्रकाशित करती है जो केन्द्रीय सरकार को 11/2/2014 को प्राप्त हुआ था।

[सं० एल-29012/31/2000-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 13th February, 2014

S.O. 828.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 153/2000) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bhilai Steel Plant and their workman, which was received by the Central Government on 11/2/2014.

[No. L-29012/31/2000-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/153/2000

PRESIDING OFFICER: SHRI R.B. PATLE

The President,
Pragatisheel Mazdoor Union,
In front of Tehsil officer,
PO Dalli Rajhar,
Durg (MP)

.....Workman/Union

Versus

General Manager (Mines),
Bhilai Steel Plant,
Bhilai (MP)

.....Management

AWARD

(Passed on this 16th day of January 2014)

1. As per letter dated 27.7.2000 by the Government of India, Ministry of Labour, New Delhi, the reference is

received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-29012/31/2000-IR(M). The dispute under reference relates to:

"Whether the demand of the Pragatisheel Mazdoor Union for change of date of birth of Shri Joharit Ram, S/o Ramsai, employed at Dalli Manual Mines as 14.10.52 is justified? If so, to what relief the workman is entitled?"

2. After receiving reference, notices were issue to the parties. Ist Party Union filed statement of claim at Page 2/1 to 2/5. The case of Ist Party Union is that the workman Shri Johit Ram was working in Dalli Manual Mines in Gang No. 94 having P.No. 873593. His date of birth is 14.10.1952 as per School Certificate. That he requested his employer with regard to his date of birth. However employer intimated him that he joined as contract workman on 2.4.74 and regularized as DPR from 31.5.96. That is Form B register, his date of birth is recorded as 28-5-86. Management of Bhilai Steel Plant informed him that he himself had mentioned his date of birth as 28.5.46 in Medical Examination Form duly signed by him. Workman further submits that while conducting Medical examination, his signature might have been obtained. That workman working as raising Mazdoor has been placed as DPR Dalli Mines and his date of birth was recorded. It is emphasized that workman had written his date of birth as 14.10.52 while submitting nomination and declaration of PF Form. That his date of birth 14.10.52 was not accepted by Bhilai Steel Plant. Workman requests management be directed to record his date of birth as 14.10.52 and consequential reliefs.

3. IInd Party management filed Written Statement at Page 7/1 to 7/7. All material contentions of the workman that his date of birth as per School Certificate is 14.10.52 is denied. That in Form B register, the date of birth of workman is recorded 28.5.1946 at the time of Medical Examination, same date was recorded on 1.11.95. IInd party denies that while conducting medical examination, signature of workman was obtained on medical card. Workman himself submitted personal details, age, date of birth and signed. Workman is a literate person. Date of birth of workman is 28.5.1946. IInd party reiterates that workman himself had disclosed his date of birth and same date of birth was accepted in the record. It is denied that date of birth of workman is 14.10.52. It is denied that workman is entitled for correction of date of birth in Service Record.

4. IInd party submits that as per circular dated 2.8.74, dated of birth cannot be changed within last 5 years of service of employees. IInd party referred to ratio held in various cases in the matter of correction of date of birth and submits that correction of date of birth prayed by workman cannot be accepted. IInd Party prayed for rejection of the claim.

5. Ist Party Union filed rejoinder at Page 10/1 to 10/9 reiterating his contentions in Statement of claim that his

date of birth is 14.10.1952. The date of birth was wrongly recorded as 28.5.1946. He prays for corrections of his date of birth.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|--|
| (i) Whether the demand of the Pragatisheel Mazdoor Union for change of date of birth of Shri Joharit Ram, S/o Shri Ramsai, employed at Dalli Manual Mines as 14.10.52 is justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | Workman is not entitled to relief prayed by him. |

REASONS

7. The demand of Union for change of date of birth of Shri Joharit Ram as 14.10.52 is referred for decision. The claim of the Union that date of birth of workman Shri Joharit Ram was wrongly recorded as 28.5.46. The correct date of birth as per school record is 14.10.52 is denied by the management. The Affidavit of evidence of workman Shri Joharit Ram is filed. Workman has stated that his date of birth as per School record is 14.10.52. In Form B, date of birth is wrongly recorded as 28.5.46. That while conducting medical examination, he had not filled the form. The date of birth was recorded on the basis of physical observation. In his cross-examination, workman says he was working under contractor from 28.5.74 to 31.5.96. When he started working with contractor he was of 22 years of age. No document was produced by him while working with the contractor. He was regularized in Bhilai Steel Plant in June 96. At that time, he had submitted certificate of Higher Secondary School. At the time of regularization, his medical examination was conducted. He admits that he had filled the form for medical examination. He further says that he had not written date of birth in the form, it was written by the clerk after enquiring with him. After regularization, Form B register was prepared, his date of birth was recorded as 28.5.46. He had submitted declaration for Provident fund Nomination. He has written his date of birth was 14.10.52. At the time of regularization in service, he had passed Higher Secondary. He had submitted certificate of passing middle school of village Bharda. That he was admitted in Ist standard in 1962. In 1968 he had passed 8th standard. Documents Exhibit M-2 to M-7 are admitted by the witness. Exhibit M-7 was submitted by him for correction of his date of birth in 1997. That he retired from service in 2006. Workman has produced zerox copy of his marksheet. No case is taken to produce certified copy of the original marksheet of Secondary school or higher Secondary. Zerox copy of the form for declaration of Provident Fund is produced. The Union has not taken steps to prove those documents.

8. In Exhibit M-5, age of workman in written 49 years. In Exhibit M-7, date of regularization is shown 31.5.96 and date of joining 28.5.74. In Exhibit M-1 from B register, date

of birth of workman is recorded as 28.5.46. In Exhibit M-2 & 3, date of birth is recorded as 28.5.46 educational qualification is shown SSC passed. Circular produced Exhibit M-4, Para 5 provides that no change in date of birth is allowed in a request during last 5 years of retirement of the employees. Exhibit M-6, date of regularization and retirement were recorded. Though the workman is claiming that as per school record, his date of birth is 14.10.52. The workman has not proved same document.

9. In evidence of management's witness Babanrao is on the point that date of birth of workman is recorded 28.5.46 in the record mentioned by the office. The witness of the management in his cross-examination says workman was appointed as contract labour in 1974, he was regularized in 1976. Workman knows to the put his signature. As per regulations, if there is dispute about date of birth, the certificate of High School is considered sufficient proved. That the entry of date of birth was taken in Form B Register. Proof of High Secondary Certificate was not called from workman. That Paper No. 2/10 was submitted as declaration of Provident fund was not of the department.

10. Burden lies on workman to prove that his birth is 14.10.52 and that incorrect date was recorded in Form B register. Workman has not proved his school certificate recording his date of birth. Merely zerox copy of mark sheet are produced without taking care to prove the document. The evidence is not sufficient to prove correct date of birth of workman. Though counsel for IInd part has relied on plenty of judgments, I am not inclined to discuss ratio held in all those cases. The copy is produced on record. As the evidence adduced by workman is not sufficient to prove his date of birth is 14.10.52 therefore I record my finding on Point No. 1 in Negative.

11. In the result, award is passed as under:

- (1) The Demand of the Pragatisheel Mazdoor Union for change of date of birth of Shri Joharit Ram, S/o Shri Ramsai, employed at Dalli Manual Mines as 14.10.52 is not justified.
- (2) Union is not entitled to relief prayed by them regarding correction of date of birth of workman Shri Johit Ram.

R.B. PATLE, Presiding Officer

नई दिल्ली, 13 फरवरी, 2014

का.आ. 829.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत पेट्रोलियम कारपोरेशन लिमिटेड कोचीन रिफाइनरी के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय एर्नाकुलम के पंचाट (संदर्भ संख्या 25/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/2/2014 को प्राप्त हुआ था।

[सं. एल-30011/59/2012-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, 13th February 2014

S.O. 829.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 25/2013) of the Central Government Industrial Tribunal/Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Petroleum Corporation Limited, Cochin Refinery and their workman, which was received by the Central Government on 11/2/2014.

[No.L-30011/59/2012-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL

TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present: Shri. D. Sreevallabhan, B.Sc., LL.B,
Presiding Officer

(Friday the 27th day of September, 2013/05th
Asvina, 1935)

I.D. 25/2013

Union	:	The General Secretary Cochin Refinery Workers Association Ambalamugal Cochin, Kerala
Management	:	The General Manager BPCL Kochi Refinery Ambalamugal

This case coming up for final hearing on 26.09.2013 and this Tribunal-cum-Labour Court on 27.09.2013 passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, the Government of India, Ministry of Labour by its Order No-L-30011/59/2012-IR(M) dated 08.02.2013 referred this industrial dispute to this tribunal for adjudication.

2. The dispute is:

"Whether the action of the management of the BPCL-KR, in deferring the merger of 50% DA with basic wages is justified? What relief the workmen are entitled to?"

3. After appearance of both the parties and before submission of pleadings they have filed a joint memo stating that the above industrial dispute does not require any adjudication in view of clause 5(ii) of the Long Term Settlement signed between the management and the

recognized trade unions before the Conciliation Officer on 30.05.2013 and hence an award to be passed to that effect.

4. As there exists no industrial dispute a 'No Dispute Award' is passed in this case. The joint memo will form part of the award.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 27th day of September, 2013.

D. SREEVALLABHAN, Presiding Officer
APPENDIX - NIL

नई दिल्ली, 13 फरवरी, 2014

का०आ० 830.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केरला मिनरल्स एंड मेटल्स लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, एर्नाकुलम के पंचाट (संदर्भ संख्या 28/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/2/2014 को प्राप्त हुआ था।

[सं० एल-15025/1/2014-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 13th February, 2014

S.O. 830.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 28/2013) of the Central Government Industrial Tribunal/Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kerala Minerals and Metals Limited, and their workman, which was received by the Central Government on 11/2/2014.

[No. L-15025/1/2014-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT: Shri. D. Sreevallabhan, B.Sc., LL.B.,

Presiding Officer

(Monday the 26th day of August, 2013/

04th Bhadrapada, 1935)

I.D. 28/2013

Petitioner : Shri Sivankutty Nair K
Empl. No. 120686
Senior Grade Accountant, KMML
Visakh
Near Milk Society Ltd.

Thamarakulam P.O.

Alappuzha-690530

By Advs. Shri R. Rajasekharan Pillai
& Shri K. B. Dayal

Respondent : The Managing Director
The Kerala Minerals and Metals Ltd.
Sankaramangalam P.O.
Chavara Pin - 691583
Kollam District
By M/s. B. S. Krishnan Associates

This case coming up for final hearing on 26.08.2013 and this Tribunal-cum-Labour Court on the same day passed the following:

AWARD

Challenging the order of his dismissal from service by the management, the workman filed this petition under Section 2A(2) of the Industrial Disputes Act, 1947.

2. In the petition it is alleged that the workman was appointed in the post of Accountant Grade II in the Titanium Dioxide Pigment Unit of the management *w.e.f.* 19.06.1985 and later he was promoted to the post of Accountant Grade I and then to the post of Senior Grade Accountant. While he was working in the post of Senior Grade Accountant he was placed under suspension *w.e.f.* 01.10.2010 and disciplinary proceedings was initiated against him. After conducting enquiry, he was dismissed from service on 07.07.2011. Against that order he preferred an appeal before the Board of Directors and in the appeal he was allowed to get the financial benefits without altering the imposition of the punishment of dismissal from service. The enquiry as well as imposition of penalty are illegal and hence he is to be reinstated in service with full back wages.

3. At the time when the case stood posted for written statement workman filed IA 85/2013 with the prayer to withdraw the petition in view of the order of reference made by the Govt. of India/Ministry of Labour with regard to the same issue and now pending as ID 32/2013 of this tribunal. The IA has been allowed without any objection. Accordingly this petition is dismissed.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 26th day of August, 2013.

D. SREEVALLABHAN, Presiding Officer

APPENDIX - NIL

नई दिल्ली, 13 फरवरी, 2014

का०आ० 831.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत पेट्रोलियम कारपोरेशन लिमिटेड, कोचीन रिफाइनरी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, एर्नाकुलम के पंचाट (संदर्भ संख्या 24/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/2/2014 को प्राप्त हुआ था।

[सं एल-30011/58/2012-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 13th February, 2014

S.O. 831.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 24/2013) of the Central Government Industrial Tribunal/Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Petroleum Corporation Limited, Cochin Refinery and their workman, which was received by the Central Government on 11/2/2014.

[No.L-30011/58/2012-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT: Shri D. Sreevallabhan, B.Sc., LL.B,
Presiding Officer

(Friday the 27th day of September, 2013/
05th Asvina, 1935)

I.D. 24/2013

- | | | |
|------------|---|--|
| Union | : | The General Secretary
Refinery Employees Union
Kochi Refinery
Ambalamugal
Cochin, Kerala |
| Management | : | The General Manager
BPCL
Kochi Refinery
Ambalamugal
By M/s. Menon & Pai |

This case coming up for final hearing on 26.09.2013 and this Tribunal-cum-Labour Court on 27.09.2013 passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, the Government of India, Ministry of Labour by its Order No-L-30011/58/2012-IR (M) dated 08.02.2013 referred this industrial dispute to this tribunal for adjudication.

2. The dispute is:

"Whether the action of the management of the BPCL-KR, in deferring the merger of 50% DA with basic

wages is justified? What relief the workmen are entitled to?"

3. After appearance of both the parties and before submission of pleadings they have filed a joint memo stating that the above industrial dispute does not require any adjudication in view of clause 5(ii) of the Long Term Settlement signed between the management and the recognized trade unions before the Conciliation Officer on 30.05.2013 and hence an award to be passed to that effect.

4. As there exists no industrial dispute a 'No Dispute Award' is passed in this case. The joint memo will form part of the award.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 27th day of September, 2013.

D. SREEVALLABHAN, Presiding Officer

APPENDIX - NIL

नई दिल्ली, 13 फरवरी, 2014

का०आ० 832.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बाल्मर एंड लॉरी कंपनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय एर्नाकुलम के पंचाट (संदर्भ संख्या 87/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/2/2014 को प्राप्त हुआ था।

[सं एल-30012/36/2001-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 13th February, 2014

S.O. 832.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 87/2006) of the Central Government Industrial Tribunal/Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Balmer Lawrie & Company Limited and their workman, which was received by the Central Government on 11/2/2014.

[No. L-30012/36/2001-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT: Shri D. Sreevallabhan, B.Sc., LL.B,
Presiding Officer

(Tuesday the 30th day of July, 2013/
08th Shravana, 1935)

ID 87/2006

Workman : Shri H. D. Gangadhara Bhandari
CC VIII/1611
Kannadiparambil
Cochin
By Adv. Shri P. Jacob Varghese
Management : The Assistant General Manager
(P & A)
Balmer Lawrie & Co. Ltd.
Manali, Chennai
Chennai-600068
By M/s. V. S. Rajan Associates

This case coming up for final hearing on 28.07.2013 and this Tribunal-cum-Labour Court on 30.07.2013 passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India/Ministry of Labour by its Order No. L-30012/36/2001/IR(M) dated 18.06.2001 had referred this industrial dispute for adjudication to the CGIT-cum-Labour Court, Chennai and the same was later on transferred to this tribunal by the Ministry of Labour as per Order No. L-30012/36/2001-IR(Misc) dated 20.08.2001.

2. The dispute is:

"Whether the action of the management of Balmer Lawrie & Co. Ltd. in terminating the services of the workman Sh. H.D. Gangadhara Bhandari by order dated 28.2.98 is justified? If not, to what relief is he entitled to?"

3. Workman filed claim statement alleging that he was in continuous employment in the management company from 1989 to 1997 and that he was illegally terminated from the employment based on a namesake enquiry conducted without affording opportunity to properly defend and in violation of the principles of natural justice.

4. Management filed written statement denying the allegations in the claim statement with regard to the challenge made as to the validity of the enquiry and contending that the workman was validly terminated from service after initiating disciplinary proceedings and conducting a fair and proper enquiry.

5. As the validity of the enquiry was under challenge it was heard as a preliminary issue and this tribunal *vide* order dated 29.03.2007 found that the enquiry is vitiated on account of violation of principles of natural justice and perversity of findings.

6. Challenging that order management filed WP(C) No. 13054 of 2007(D) before the Hon'ble High Court of

Kerala. During the pendency of that petition there was a full and final settlement between the parties. The same was accepted by the Hon'ble High Court and thereby it was disposed of *vide* order dated 16.08.2012. As per the settlement workman is to be paid an amount of 1,50,000/- as compensation.

7. Management has produced the certified copy of the order of the Hon'ble High Court of Kerala in this case. Afterwards workman was continuously absents himself from appearing before this tribunal. As the matter was settled between the parties there is no necessity to further proceed with this case. Hence 'no dispute' award is passed in this case.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 30th day of July, 2013.

D. SREEVALLABHAN, Presiding Officer

APPENDIX — NIL

नई दिल्ली, 13 फरवरी, 2014

का०आ० 833.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत पेट्रोलियम कारपोरेशन लिमिटेड, कोचीन रिफाइनरी के प्रबंधन के संबंध में निर्यातकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय एर्नाकुलम के पंचाट (संदर्भ संख्या 14/2012) प्रकाशित करती है जो केन्द्रीय सरकार को 11/2/2014 को प्राप्त हुआ था।

[सं० एल-30011/21/2011-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 13th February, 2014

S.O. 833.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 14/2012) of the Central Government Industrial Tribunal/Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Petroleum Corporation Limited, Cochin Refinery and their workman, which was received by the Central Government on 11/2/2014.

[No. L-30011/21/2011-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM**

PRESENT: Shri D. Sreevallabhan, B.Sc., LL.B, Presiding
Officer

(Friday the 27th day of September, 2013/

05th Asvina, 1935)

I.D. 14/2012

Union : The General Secretary
Kochi Refineries Workers'
Association
VPP/1/427, Ambalamughal
Ernakulam-682030
By Adv. Shri M. Rajasekharan Nayar

Management : The General Manager
Bharat Petroleum Corporation Ltd.
Kochi Refinery
Ambalamugal
By M/s. Menon & Pai

This case coming up for final hearing on 26.09.2013 and this Tribunal-cum-Labour Court on 27.09.2013 passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India, Ministry of Labour by its Order No. L-30011/21/2011/IR(M) dated 03.03.2012 referred this industrial dispute to this tribunal for adjudication.

2. This dispute is:

"Whether the action of the management of BPCL-KR, in denying the benefit of annual increment over and above the promotional increment, is legal and justified? What relief the workmen are entitled to?"

3. After appearance of the parties union filed claim statement challenging the legality of the withholding of the benefits for which the workman are eligible as clause 13 and 14 of the Conciliation Settlement entered into by the workmen and management on 28.08.2002 providing for increment and promotional increments.

4. Management filed written statement denying the claim of the union and contending that there is no violation of any of the provisions of the "Long Term Settlement" for the fixation of promotional increment.

5. Union filed rejoinder denying the contentions in the written statement and reaffirming the allegations in the claim statement.

6. At the time when the case stood posted for evidence union and management filed a joint memo stating that the above industrial dispute does not exist in view of clause 5(ii) of the Long Term Settlement signed between the management and the recognized trade unions before the Conciliation Officer on 30.05.2013 and hence an award to be passed to that effect.

7. As the matter is settled between the parties a 'No Dispute Award' is passed in this case.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 27th day of September, 2013.

D. SREEVALLABHAN, Presiding Officer

APPENDIX — NIL

नई दिल्ली, 13 फरवरी, 2014

कांआ० 834.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत पेट्रोलियम कारपोरेशन लिमिटेड कोचीन रिफाइनरी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय एर्नाकुलम के पंचाट (संदर्भ संख्या 1/2012) प्रकाशित करती है जो केन्द्रीय सरकार को 11/2/2014 को प्राप्त हुआ था।

[सं० एल-30011/72/2010-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 13th February, 2014

S.O. 834.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1/2012) of the Central Government Industrial Tribunal/Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Petroleum Corporation Limited, Cochin Refinery and their workman, which was received by the Central Government on 11/2/2014.

[No. L-30011/72/2010-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT: Shri, D. Sreevallabhan, B.Sc., LL.B.,
Presiding Officer

(Tuesday the 14th day of May, 2013/
24th Vaisakha, 1935)

I.D. 1/2012

Workman : The General Secretary
Cochin Refineries Employees'
Association
Ambalamugal
Kochi-682302
By Adv. Shri C.S. Ajith Prakash

Management : The General Manager
Bharat Petroleum Corporation Ltd.
Kochi Refinery

Ambalamugal
Ernakulam-682302 (Kerala)
By M/s. Menon & Pai

This case coming up for final hearing on 13.05.2013 and this Tribunal-cum-Labour Court on 14.05.2013 passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, the Government of India, Ministry of Labour by its Order No. L-30011/72/2010-IR(M) dated 16.12.2011 referred this industrial dispute to this tribunal for adjudication.

2. The dispute is:

"Whether the action of the management of BPCL Cochin Refinery, in delaying the promotion to Shri C. Jayan from the date of selection is justified? To what relief he is entitled?"

3. After the receipt of this industrial dispute both the Union and management entered appearance on receipt of summons and submitted their pleadings. Afterwards Union filed IA 32/2013 with the prayer to pass an award treating the industrial dispute as not pressed since the workman is not interested to prosecute the matter. The IA was allowed without any objection from the side of the management. Hence, the reference is closed.

The Award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 14th day of May, 2013.

D. SREEVALLABHAN, Presiding Officer

APPENDIX - NIL

नई दिल्ली, 13 फरवरी, 2014

कांआ 835.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार रिलायंस लाइफ इन्श्युरन्स कंपनी लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, एर्नाकुलम के पंचाट (संदर्भ संख्या 5/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/2/2014 को प्राप्त हुआ था।

[सं एल-17012/5/2011-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 13th February, 2014

S.O. 835.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 5/2012) of the Central Government Industrial Tribunal/Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute

between the employers in relation to the management of Reliance Life Insurance Company Limited and their workman, which was received by the Central Government on 11/2/2014.

[No. L-17012/5/2011-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT: Shri D. Sreevallabhan, Presiding Officer
(Tuesday the 31st day of December, 2013)

I.D. 5/2012

Workman	:	Shri Anand Paul Kannampuzha Veedu St. Vincent, 2nd Cross Road Kacherippady Kochi-18 Ernakulam By M/s A.V. Xavier
Managements	:	1. M/s. Reliance Life Insurance Company Ltd. Reliance House 6th Floor, No. 6 Haddows Road Nungambakka Chennai-600006 2. The Regional Manager Reliance Life Insurance Company Ltd. Regional Office Kadavanthara Kochi, Ernakulam

This case coming up for final hearing on 26.12.2013 and this Tribunal-cum-Labour Court on 31.12.2013 passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India, Ministry of Labour by its Order No. L-17012/5/2011-IR(M) dated 24.01.2012 referred this industrial dispute for adjudication to this tribunal.

The dispute is:

"Whether the action of the Management of M/s. Reliance Life Insurance Co. Ltd. with its Head Office at Mumbai-400710 in terminating the services of Shri Anand Paul, EMP-ID Code 70024319, Customer Care Executive, Chavakkad, District Thrissur, Kerala vide notice dated 15.01.2009 is legal and justified? What relief the workman is entitled to?"

3. The workman was appointed in the operation wing of the management industry after due selection process as per order dated 17.09.2007. He was on probation for a period of six months after joining duty on 22.09.2007. He was terminated from service on 27.02.2009 as per order dated 15.01.2009.

4. It is his case that though he was designated as an executive for practical purposes he was employed for processing insurance policies, collecting insurance premiums by cash or cheque and arranging its remittance to the bank. After completion of probation he was in regular service and his service was illegally terminated by the management since he did not accede to the persistent demands made by the management for his resignation on the plea of recession. As the termination of service is illegal he is continuing in service and is entitled to get the relief of reinstatement with full back wages, continuity of service and all other attendant benefits.

5. In the joint written statement filed by the respondents it is contended that the workman was engaged as a Customer Care Executive on 22.09.2007 after interview. He was hired and necessary training was given. Initially his performance was rated above average but afterwards it came down to below average and thereby his service was terminated as provided under clause 8(iv) of his appointment order by paying three months' notice period pay and his pending dues. Hence his claim is totally unsustainable and is liable to be rejected.

6. Workman filed rejoinder denying the contention in the written statement and reaffirming the allegations in the claim statement. After the case was posted for evidence, managements were continuously absenting and hence set ex-parte. From the side of the workman, the workman was got examined as WW-I and Exbts. W-I to W-4 were got marked.

7. The points for determination are:

- (i) Whether the service of the workman was illegally terminated by the management?
- (ii) Whether he is entitled to get any relief?

8. **Point No. 1:** At the outset it is to be pointed out that the prayer for reinstatement is given a go by at the time of adducing evidence by the workman by filling proof affidavit expressly stating that he is not pressing the claim for reinstatement since he has been confirmed in the better services of HDFC. His claim is limited to full back wages for the months upto September, 2009 and thereafter half the back wages including the loss in insurance benefits and Provident Fund benefits till 30.06.2012, the date on which he got the better employment in the HDFC, after adjusting the three months' salary remitted in his bank account by the management towards the salary for the months of February and March, 2009. For the purpose of deciding the present claim also it is necessary to consider whether his service was illegally terminated by the management.

9. It is not in dispute that he was engaged by the management as Customer Care Executive on 22.09.2007 and his service was terminated as per order dated 15.01.2009. Challenge is made as to the validity of the termination of service by putting forward the plea in the claim statement that it is without complying with any of the provisions of the Industrial Disputes Act and in violation of the principles of natural justice. After denying the allegations as to the illegality of termination in the claim statement it is contended by the managements that he was hired and as his work after giving training was found to be below average he was terminated from service after having discussions with him by invoking the termination clause 8(iv) in his appointment order by paying three months notice period pay and all his pending dues. In the rejoinder filed by the workman no challenge is made with regard to clause 8(iv) in his appointment order. Instead it is pleaded that there was no circumstances to terminate the service of the workman by invoking that termination clause. The payment of money by the management is also admitted by him in the pleadings and the proof affidavit filed by him. Clause 8(iv) of his appointment order is extracted in the written statement and no challenge is made with regard to it in the rejoinder or in the proof affidavit. It reads thus:

"On satisfactory completion of the probation period and after your confirmation in writing except for the reasons mentioned in this appointment letter, this contract of employment can be terminated by either side by giving to the other 3 (three) months notice in writing or salary in lieu thereof. However, in events of your resignation, the Company in its sole discretion will have an option to accept the same and relieve you prior to completion of the stipulated notice period of 3 months, without any pay in lieu of the notice period."

10. So the termination is in accordance with clause 8(iv) of his appointment order. It is pertinent to note that there is no express plea either in the claim statement or in the rejoinder that he is a workman coming within the purview of Section 2(s) of the Industrial Disputes Act and he is terminated from service without complying with the conditions under Section 25F of the said Act. Such a plea might not have been put forward since he may not be a workman coming within the definition of Section 2(s) of 'workman' under the Industrial Disputes Act.

11. There is no challenge as to the validity of clause 8(iv) of his appointment order either in the rejoinder or in his proof affidavit. In the rejoinder it is only stated that there were no circumstances to terminate the service of the workman by invoking the power under that termination clause. It will also go to show that the service of the workman can be terminated by resorting to that clause in the appointment order. The appointment order is not produced in this case to satisfy that there existed any circumstance preventing the management from invoking that termination clause. The termination is effected by

complying with the procedure provided therein. Three months' salary is admitted to have been remitted in his bank account. So the termination of service is in accordance with clause 8(iv) in the appointment order. Even if it will be said that the termination of service is in violation of Section 25F of the Industrial Disputes Act, then also his claim can be only for one month's salary and compensation. It cannot be more than that of the amount received by him. Even though he does not want reinstatement due to his subsequent employment he has put forward the claim for full back wages upto September, 2009 and thereafter half back wages till 30.06.2012. Such a claim is also not liable to be entertained since he got employment in September, 2009. Exhibit W-3 will go to show that he was employed as Process Associate in Outsource Partners International with a total monthly salary of ₹ 11,270/-. Later he got employment as Senior Associate-Medical in HDFC Life with a salary of ₹ 2,60,144/- per annum. As it is a case where no reinstatement is to be made there is no need to make any payment as compensation especially in view of the payment of three month's salary and the subsequent employment of the workman from September, 2009 onwards. Hence it cannot be held that the termination of service of the workman is not legal and justified. Even the order of termination dated 15.01.2009 is not produced and exhibited in this case to satisfy that there is any illegality in the termination of service. The termination is in accordance with the terms of the appointment order. Even if it is treated to be under Section 25F of the Industrial Disputes Act, then also it cannot be said that the termination is not legal. Hence, the termination of service of workman by the management is legal and justified.

12. Point No. 2: In view of the above finding the workman is not entitled to any relief.

13. In the result an award is passed holding that the action of M/s. Reliance Life Insurance Limited in terminating the services of the workman vide notice dated 15.01.2009 is legal and justified and the workman is not entitled to any relief.

The award will come into force one month after its publication in the Office Gazette.

Dictated to the Personnel Assistant, transcribed and typed by her, corrected and passed by me on this the 31st day of December, 2013.

D. SREEVALLABHAN, Presiding Officer

APPENDIX

Witness for the workman

WW1 30.09.2013 Shri Anand Paul

Witness for the managements - NIL

Exhibits for the workman—

- W-1 Copy of the salary slip of the workman for the month of December, 2008
- W-2 Copy of Death Certificate of Paulachan dated 26.05.2010 issued from the Corporation of Cochin
- W-3 Copy of the Employment offer letter dated 07.09.2009 issued by the Outsource Partners International to the workman
- W-4 Copy of Employment offer letter dated 30.06.2012 issued by the HDFC Life to the workman

Exhibits for the managements - NIL

नई दिल्ली, 13 फरवरी, 2014

का०आ० 836.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत गोल्ड माइन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 05/2002) प्रकाशित करती है जो केन्द्रीय सरकार को 11/2/2014 को प्राप्त हुआ था।

[सं० एल-29012/02/2002-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 13th February, 2014

S.O. 836.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 05/2002) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Gold Mine Limited and their workman, which was received by the Central Government on 11/2/2014.

[No. L-29012/02/2002-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

"Shram Sada",
G G Palya, Tumkur Road,
Yeswanthpur, Bangalore-560 022.

Dated : 9th January 2014

Present : Shri S.N. Navalgund

Presiding Officer

C R No. 05/2002

I Party

Sh. A Desan, S/o Shri Sanjeevi, The Managing

287, New Orient Line,
Coromandel Post,
K G F 563 118

Since deceased represented by Legal Representatives

1. D. Munisway, S/o A Desan aged about 44 years.
2. D. Loganathan, S/o A Desan aged about 40 years
3. Smt. D Rajlakshmi D/o A Desan aged about 30 years
4. D Jagadeesan, S/o A Desan aged about 28 years
5. D Muruganand, S/o A Desan, aged about 25 years

Residing at No. 287, New
Oriental Line, Coromondal
Post, K G F - 563 118.**II Party**Director.
Bharat Gold Mines Ltd.,
Swarna Bhawan.
Oorgaum.

Kolar Gold Fields.

APPEARANCES

I Party	:	Shri K.V. Sathyanarayana Advocate
II Party	:	Shri T. Raja Ram Advocate

AWARD

1. The Central Government vide order No. L-29012/2/2002-IR(M) dated 09.01.2002 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following schedule:

SCHEDULE

"Whether the management of BGML is justified in terminating the services of Shri A Desan, S/o Shri Sanjeevi w.e.f. 21.12.1980 on the basis of the wrong date of birth as alleged by the workman is justified? If not, what relief the workman is entitled to?"

2. On receipt of the reference while registering it in CR 05/2002 when the notices were issued to both parties to appear on 07.03.2002, on that day the four sons and a daughter of I Party appeared through Sh. K.V. Satyanarayan, advocate submitting that I Party is expired

on 02.10.2001 filed an application to bring them on record as his legal representative and as management submitted no objection to the said application my learned predecessor by his order dated 07.05.2002 allowed that application and permitted them to come on record and thereafter they filed their claim statement on 25.06.2002, whereas, the II Party which appeared through Sh. A.S. Boppana, advocate and his associates filed their counter statement on 10.08.2004.

3. In the claim statement filed by the legal representatives of the deceased I Party workman, it is alleged that deceased I Party workman was appointed by the II Party management in the year 1949 and issued him notice of superannuation dated 01.01.1981 whose services were entitled to be continued upto 02.07.1989 as his medical record disclose his date of birth was being 02.07.1931. It is further alleged the II Party has wrongly entered his date of birth as 1922 in his service record at the time of joining without any basis and when the same came to his knowledge he had given representation to correct the date of birth in the Service Register and as same was not considered, he had filed suit for declaration his date of birth as 02.07.1931 against the II Party in the court of Civil Judge (Jr. Dn.), KGF, the same was dismissed and even the first appeal filed in the court of Civil Judge (Sr. Dn.) also came to be dismissed in the Second Appeal before the Hon'ble High Court though it was also dismissed an observation was being made that the suit was not maintainable on the basis of law which was in force at that time and he has to seek remedy under ID Act, 1947 by order dated 24.07.1985, thereafter, he raised dispute submitting representation to the jurisdictional labour and conciliation officer as contemplated under the provisions of the ID Act, 1947 who submitted failure report on 28.02.1986 and Government of India refused to refer the dispute for adjudication in the Writ Petition filed by him in W P No. 5754/1990, the Hon'ble High Court by order dated 01.08.1997 since directed to refer the dispute to appropriate labour court under 10(1)(c) of ID Act the present reference came to be made. With these averments they have prayed for passing an award holding that the II Party management is not justified in superannuating him w.e.f. 01.01.1981 and to treat and he was in service till 02.07.1989 the date on which he was attaining 58 years of age and to pay the monetary benefits, pensionary benefits and all other consequential benefits. *Inter-alia*, in the counter statement filed by the II Party it is contended since it has incurred loss consistently the BIFR considering the matter in detail formed an opinion that it is viable to windup recommended for winding up of the company and referred to the Hon'ble

High Court of Karnataka and same is pending under Company Petition No. 180/2000 and in the meanwhile Government of India by its order dated 29.01.2001 passed the order for closure under Section 25(o) of ID Act, and accordingly it has been closed from 01.03.2001 and the said order being challenged by the Unions Representing the workmen in W P No. 1343/2001 the learned single judge was pleased to allow the said writ petition and when the same was challenged before the Hon'ble High Court of Karnataka in W A No. 1747-1757/2001 by order dated 26.09.2003 the order passed by the learned single judge came to be set aside thereby the closure of the company *w.e.f.* 01.03.2001 by the order of the Government of India stands good as such the reference is liable to be rejected. It is further contended the deceased I Party workman while getting appointment on 04.08.1949 having declared his age as 27 years without producing any evidence at his age date of birth, his date of birth was recorded as 1922 and subsequently on 17.08.1963 when he made by the pension fund nomination he mentioned in the column of Date of Birth as 1922 and accordingly he attained the superannuation age of 58 years on 31.12.1980 he has been superannuated *w.e.f.* 31.12.1980. Therefore, the contention that his date of birth was 02.07.1931 and he was entitle to continue in service till 02.07.1989 is baseless as such the reference is liable to be rejected.

4. After completion of the pleadings when the matter was posted for evidence the learned advocate appearing for the II Party filed the affidavit of J Isaac, Assistant Personnel Manager reiterating the contents of the counter statement and after his cross-examination by the learned advocate for the LR's of the I Party his side was being closed, the learned advocate appearing for the LR's of the I Party filed the affidavit of D Loganathan one of the son of the deceased workman reiterating the contents of the claim statement and in his cross-examination by the learned advocate appearing for the II Party two circulars issued by the Managing Director of the II Party dated 02.12.1963 and 03.04.1964 on the subject of alteration in the date of birth of the employees are got marked as Ex M-1 and Ex M-2.

5. With the above pleadings, oral and documentary evidence when the matter was posted for arguments the learned advocate appearing for the I Party filed his written arguments, whereas, counsel for II Party while addressing his oral arguments cited the decisions reported in.

- (i) ILR 1992 KAR 554—R Kuppurak vs. BGML
- (ii) 1994 AIR SCW 3947—State of Tamilnadu vs. T.K. Venugopalan
- (iii) (1995) 4 SCC 172—Burn Standard Co. Ltd., & others vs. Dinabandhu Majumdar and another.

6. Having regard to the reference schedule and the pleadings of the parties the points that arise for my consideration are:

Point No. 1: Whether the LR's of the deceased I Party workman proved that his actual date of birth was 02.07.1931 and he was entitle to continue in service till 02.07.1989?

Point No. 2 : What Order/Award?

7. On appreciation of the pleadings and evidence placed on record by both the sides in the light of the arguments addressed by the learned advocates, my finding on Point No. 1 is in the negative and Point No. 2 as per final order for the following.

REASONS

8. There being on dispute the deceased I Party workman having joined the service of II Party company on 04.08.1949 and in the service record his date of birth was being recorded as 1922, in the year 1980 *i.e.* after about 31 years of joining the service he disputed the entry in his service record pertaining to date of birth as wrong and approached the Court of Civil Judge (Jr. Dn.), KGF in OS No. 394/1980 and became unsuccessful in getting declaration his real date of birth being 02.07.1931 and the same was also affirmed by the first appellate court *i.e.* Civil Judge (Sr. Dn.), KGF in RA 01/1984 and when same was assailed before the Hon'ble High Court in Regular Second Appeal No. 193/1985 that also came to be dismissed with an observation such a suit was not maintainable as settled by the Supreme Court in the case reported in AIR 1975 SC 2238 and that the remedy available is under the ID Act, thereafter, the deceased I Party workman approached the conciliation officer on whose submitting FOC and direction by the Hon'ble High Court in W P No. 5754/1990 this reference came to be made, it is for the legal representatives of the I Party to prove that as per his medical records his correct date of birth was 02.07.1931 as such he was attaining 58 years of age which was superannuation age on 02.07.1989. But in this regard no evidence being made available for appreciation, only on the basis of the allegation in the claim statement and self sworn statement of one of his son B Lognathan filed in lieu of his evidence it is not possible to accept the same. Under the circumstances, I have arrived at conclusion the management of BGML being justified in terminating his services *w.e.f.* 31.12.1980 on attaining the age of 58 years as per the entry in the Service Record. Accordingly, while answering Point No. 1 in the negative, I pass the following.

ORDER

The reference is rejected holding that the action of BGML is justified in terminating the services of Shri A Desan, S/o Shri Sanjeevi *w.e.f.* 31.12.1980 on the basis of the wrong date of birth as alleged by the workman and his LR's are not entitle for any relief.

(Dictated to U.D.C. transcribed by him, corrected and signed by me on 9th January, 2014).

S. N. NAVALGUND, Presiding Officer

नई दिल्ली, 13 फरवरी, 2014

का०आ० 837.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ए० एस० आई० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (संदर्भ संख्या 76/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2014 को प्राप्त हुआ था।

[सं० एल-42012/263/2003-आई आर (सी एम-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 13th February, 2014

S.O. 837.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 76/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of Archaeological Survey of India, and their workmen, received by the Central Government on 13/02/2014.

[No. L-42012/263/2003-IR(CM-II)]

B.M. PATNAIK, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, LUCKNOW

PRESENT: Dr. MANJU NIGAM, Presiding Officer
I.D. No. 76/2004
Ref. No. L-42012/263/2003-IR(CM-II)
dated: 03.08.2004

BETWEEN

Shri Sipahi Lal, S/o Late Shri Prabhu Niwasi
Through Shri Ashok Kumar Singh
80, Lorries Complex
Agra (U.P.)

AND

The Superintendent Archaeologist
Archaeological Survey of India
22, Mall Road
Agra (U.P.)

AWARD

1. By order No. L-42012/263/2003-IR(CM-II) dated: 03.08.2004 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Shri Sipahi Lal, S/o Late Shri Prabhu Niwasi, Through Shri Ashok Kumar Singh, 80,

Lorries Complex, Agra (U.P.) and the Superintendent Archaeologist, Archaeological Survey of India, 22, Mall Road, Agra (U.P.) for adjudication.

2. The reference under adjudication is:

"Kya Adikshan Puratatvavid, Bharitya Buratatv Sarvekshan, Agra Dwarka Karmkaar Shri Sipahi Lal Atmaj Swa. Shri Prabhu Ko Sewa Main Niyamit Nahi Karke Dinank 13.11.2002 Se Sewa Se Nishkaasit Karna Nayayochit Hai? Yadi Nahi, to Sambandhit Karmkaar Kis Anutosh Ka Hakdaar Hai?"

3. The case of the workman, Sipahi Lal, in brief, is that he has been engaged with the opposite parties viz. Archeological Survey of India (hereinafter referred to as ASI) as Safai Karmchhari from 01.01.1984 to 12.11.2002 and completed 240 days in a year; but the management of the ASI, instead of regularizing him, has illegally terminated his services without any rhyme or reason and also without any prior information or notice w.e.f. 13.11.2002, in violation to the provisions of Section 25 F of the Industrial disputes Act, 1947. Also, it has been alleged by the workman that the opposite party has engaged six new Safai Karmchhari after his disengagement and thereby have violated provisions of section 25 G & H of the Act. Accordingly, the workman has prayed that the termination of his services w.e.f. 13.11.2002 be set aside and he be reinstated with continuity of services, full back wages and other consequential benefits.

4. The management of the Bank of the ASI has disputed the claim of the workman by filing its written statement; whereby it has taken the objection that the ASI is discharging sovereign function; hence is not an industry within the provisions of the Section 2 'J' of the Industrial Disputes Act, 1947. The management has further, submitted that the workman was never engaged by the management w.e.f. 01.01.93; rather he was engaged as casual labour much after 10.09.93 as and when required. It is also submitted that there is no rule in the department to regularize the services of casual labourers, who completed 240 days of work under the establishment of the ASI. However, the existing scheme of temporary status provides for grant of temporary status to casual labourers who had completed 240 days of work during the period of 10.09.92 to 09.09.93 and who were present on duty on 10.09.93. It is submitted by the management that the casual labour are engaged in the department as and when required basis and also soon as the sanctioned item of work, against which such casual labourers are engaged, is completed, the casual labourers are disengaged forthwith, which does not amounts to violation of provisions of Section 25 F of the I.D. Act, 1947; and accordingly, the management has prayed that the claim of the workman be rejected ad devoid of merit.

5. The workman has field rejoinder whereby apart from reiterating his averments in the statement of claim has submitted that the ASI is an industry. He has also submitted

that the management did not extend the benefit of order No. 54016/2/90-Estt. (C) dated 10.09.1993 and 49022/2/97-Estt. (C) dated 24.10.1997.

6. The parties have filed documentary proof in support of their respective cases. The workman has examined himself whereas the management examined P.N. Kulshresth, Shri Umesh Chandra Sharma and Shri P.S. Rana, in support of their respective stands. The parties availed opportunity to cross-examine the each other's witnesses apart from forwarding oral arguments.

7. Heard authorized representatives of the parties and perused entire evidence on record.

8. The learned representative on behalf of the workman has contended that the workman had worked for more than 240 days in each calendar year from 01.01.1984 to 12.11.2002 continuously and was entitled for grant of temporary status as per office memorandum No. 54016/2/90-Estt. (C) dated 10.09.1993 and 49022/2/97-Estt. (C) dated 24.10.1997; despite this his services have been terminated in violation of section 25 F of the I.D. Act. He has also submitted that the management of the ASI is an 'industry' within the provisions of Section 2 'J' of the Act.

9. In rebuttal, the authorized representative of the management has contended that the opposite party is not an industry as it is discharging sovereign function. He has also contended that the workman was engaged with the management as casual worker as and when required much after 10.09.93 and his services automatically came to an end with the end of the sanction; hence there is no violation to the provisions of the Act. Further it has also submitted that the scheme for grant of temporary status was applicable w.e.f. 01.09.1993 for those who were on the rolls on the date of issue of office memorandum dated 10.09.1993 and since the workman had been engaged much after 10.09.1993 he was not entitled for grant of temporary status.

10. The workman has examined himself as witness in support of his case; whereby he has stated that he worked continuously from 01.01.84 to 12.11.2002 and his attendance was marked on Muster Roll. It is also stated that he was paid Rs. 2040/- per month and some time he was paid less than Rs. 2000/- in a month. In cross-examination he has admitted that he was not given any appointment letter and his name was not sponsored from the Employment Exchange.

11. In rebuttal, the opposite party has examined Shri P.N. Kulshreshth, who stated that he worked from 07.04.2000 to June, 2000 at Bareilly region where the workman worked for 70 days as daily wage. Another witness, Shri Umesh Chandra Sharma stated that he was posted in the year 91-92 and the workman did not work under him. However, Shri P.S. Rana, MW-3, stated that he worked from 1992 to 2000. It was stated that Labour Register brought by him, which is for duration 1988 to 1994, there is no entry in the

name of Sipahi Lal. The workman worked in 1998-1999 for some time but was not kept on Muster Roll. In cross-examination he could not state as to why the register from 1994 to 2000 could not be produced by the management.

12. In the light of the aforesaid rival statements of both the sides I have scanned the material available on record.

13. After going through the rival contentions of the parties it becomes apparent that before entering into the merit of the case this Tribunal has to decide as to whether the opposite party is an 'industry' or not within the meaning of the Section 2 (J) of the Act. In this regard the workman has relied on verdict of Hon'ble Apex Court in Bangalore Water Supply & Sewerage Board etc. vs. A Rajappa & others case; wherein it has been observed that

"absence of profit motive on gainful objective is irrelevant, be the venture in the public, joint, private or other sector."

Hon'ble Apex Court has further observed that

"Where (i) systematic activity (ii) organized by co-operation between employer and employee (the direct and substantial element is commercial (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss i.e. making on a large scale Prasad or food) prima facie, there is an industry in that enterprise."

It is well known that the Archaeological Survey of India is indulged in upkeep of the ancient monuments in order to preserve the cultural heritage of this country. For achieving this aim the ASI is being funded by the Government of India and it most of the times charges entry fee from the visitors, which is being utilized for the maintenance and upkeep of the monuments and its gardens etc. The workman has contended that the work carried out by the ASI is similar to CPWD and PWD, which are industry within the purview of the Act. Also, it has indicated that the nature of work carried out by ASI qualifies the triple test, formulated by Hon'ble Apex Court in Bangalore Water Supply case. Thus, in view of facts and circumstances of the case and above legal prepositions, I am of the opinion that ASI is at par with the CPWD, PWD and other municipalities, which are covered under Industrial Dispute; and accordingly, come to the conclusion that the opposite party is an 'industry' within the provisions of Section 2 (j) of the Industrial Disputes Act, 1947.

14. Admittedly no appointment letter was issued to the workman and he was engaged by the management of ASI as a casual labour. The workman in his pleadings and evidence has come up with the case that he worked continuously from 01.01.1984 to 12.11.2002 and his services

have been terminated w.e.f. 13.11.2002 and in order to substantiate his pleadings he has filed photocopy of some attendance sheet for intermittent duration, for August, 99 to 11.11.2002. The workman also moved an application on affidavit to summon the Muster Roll and Duty Register from January, 1984 to 2002 the management did not file any written objection to the application; however after hearing the parties, the management was directed vide order dated 07.03.2005 to produce Muster Roll for the period 01.01.1984 to 12.11.2002 within a month. The management did not file any document/Muster Roll in compliance of the order dated 07.03.2005. The management also did not file any affidavit stating the obstacle in filing the Muster Rolls for the period 01.01.1984 to 12.11.2002.

15. The management of the ASI in his pleading has submitted that workman has been engaged as casual worker as when required much after 10.09.93; but has neither disclosed his date of initial engagement nor his working/ payment details nor has produced the Muster Rolls, it was ordered to produced.

Hon'ble Gujrat High Court in Director, Fisheries Terminal Division vs. Bhakubhai Meghajibhai Chavda 2010 AIR SCW 542; has observed that for proving 240 days' continuous working, the workman would have difficulty in having access to all official documents, muster rolls etc., in connection with his service, therefore, the burden of proof shifts to the employer to prove that he did not complete 240 days of service in requisite period to constitute continuous service.

However, the workman has filed the attendance sheets from August, 99 to 11.11.2002 to corroborate his pleadings. The management witness, Shri Umesh Chandra Sharma stated that he was posted in Ahikhetra Region in the year 91-92 but the workman never worked under him. He failed to produce the Muster Rolls of the relevant time, in support of his statement.

16. It is the case of the workman that the management of ASI has terminated his services without observing the provisions of Section 25 F of the Industrial Disputes Act, 1947. In Surenderanagar Panchayat and another v. Jethabhai Pitamberbhai 2005 (107) FLR 1145 (SC) Hon'ble Apex Court came to the conclusion that the workman would be entitled for the protection of section 25-F of the Industrial Disputes Act, 1947 provided he is successful in establishing the fact that he had been in employment with the employer for a period of 240 days uninterruptedly. It was held by the Hon'ble Supreme Court that in such cases, the scope of the enquiry before the Labour Court was confined only to 12 months proceeding the date of termination to decide the question of the continuous service for the purpose of section 25-F of the Industrial Disputes Act, 1947. Further, Hon'ble Apex Court has observed as under:

"The claimant, apart his oral evidence has not produced any proof in the form of receipt of salary or wages for 240 days or record of his appointment or engagement for that year to show that he has worked with the employer for 240 days to get the benefit under section 25-F of the Industrial Disputes Act. it is now well settled that it is for the claimant to lead evidence to show that he in fact worked for 240 days in a year preceding his termination."

In the instant case the workman has pleaded that he worked continuously from 01.01.1984 to 12.11.2002 and has filed photocopy of attendance sheet in support of his claim; and also prayed Tribunal to summon the Muster Rolls for the period he worked with the management so the management was directed to file the Muster Rolls for the period 01.01.1984 to 12.11.2002; but it did not file any not file muster roll of the relevant period nor any affidavit regarding non-filing of the same.

In view of the non-submission of the Muster Rolls for the relevant period in spite of specific order by this Tribunal, there leaves no option but to draw adverse inference against the management and rely on the pleadings and documents filed by the workman in support of his claim. On scrutinizing the working details for the 12 calendar months preceding the date of alleged termination *i.e.* from 11.11.2001 to 12.11.2002 the working details of the workman comes as under:

Sl. No.	Month	Days of working
1.	November, 2001	Details not Available
2.	December, 2001	-do-
3.	January, 2002	28
4.	February, 2002	24
5.	March, 2002	28
6.	April, 2002	26
7.	May, 2002	29
8.	June, 2002	25
9.	July, 2002	26
10.	August, 2002	25
11.	September, 2002	23
12.	October, 2002	27
13.	November, 2002	08
Total		269

Also from the photo copy of the documents filed by the workman it is very much clear that the workman worked continuously with the management up to 11.11.2002 and worked for 269 days the twelve months preceding the date of his termination, therefore, management was liable to comply the provisions of Section 25-F of the Industrial Dispute Act, 1947 before terminating his services of the workman.

Here it is relevant to mention that the management neither filed the Muster Rolls for the period 1984 to 2002, in spite of specific order of the Court hence, taking adverse inference, it can be assumed that the workman was on the rolls of the management on 10.09.1993 and had rendered 240 days services as required by the office memorandum dated 10.09.1993 for grant of temporary status for him.

17. The Hon'ble Apex Court in number of its verdicts has emphasized this fact that the Tribunal/Labour Court, while awarding reinstatement to the casual labours or daily rated workers who have been engaged by the management without following prescribed procedure for recruitment, and it comes to the conclusion that the alleged non-compliance of provisions of Section 25-F or any provision of the Act has been done, it must consider many aspects, such as the time for which the workman had been out of service and change in the industrial scenario, his age; and on reinstatement his capability to contribute the industry. It was observed by the Apex Court that the person when is out of service for a long time gets blunt, therefore, in such cases instead of awarding reinstatement, an order for compensation would do the justice.

Admittedly, the service of the workman was terminated on 13.11.2002, therefore, it comes out that the workman had been out of services for 11 years and as per his own application his age as on 04.04.2005 was 39 years, and accordingly, only 13 years services remains. In between *Haryana Roadways vs. Rudhan Singh* (2005) 5 SCC 591; 2005 SCC (L&S) 716 Hon'ble Apex Court while considering the question regarding award of back wages has observed;

"There is no rule of thumb that in every case where the Industrial Tribunal gives a finding that the termination of service was in violation of section 25-F of the Act, entire back wages should be awarded However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period i.e. from the date of termination till the date of the award, which our experience shows is often quite large, would be wholly inappropriate. Another important factor, which required to be taken into consideration, is the nature of employment. A regular service of permanent character cannot be compared to short or intermittent daily wage employment though it may be for 240 days in a calander year."

18. In *Deepak Ganpat Tari vs. N.E. Theater Pvt. Ltd.* 2008 (119) FLR 877 Hon'ble Bombay High Court relying on the Hon'ble Apex Court's judgment in *APVK Brahmandandam* 2008 (117) FLR 1086 (SC) *Telephone DM vs. Keshab Deb* 2008 (118) FLR 376 (SC) *JDA vs. Ram Sahai* 2006 (111) FLR 1178 (SC), while awarding compensation of Rs. 1,50,000 to the concerned workman considering his daily wages as Rs. 45 in view of the fact that the workman had put in about 3 years of service, has observed as under:

"It is apparent that termination of services of a daily wagger does not amount to retrenchment and for violation of section 25-F in such circumstances, the employee cannot be given benefit of reinstatement with continuity and back wages. Hon'ble Apex Court has hold that in such circumstance employee is entitled to benefit of compensation only."

19. Also in *Jagbir Singh v. Haryana State Agriculture Mktg. Board* (2009) 15 SCC 327; (2010) 1 SCC (L&S) 545; *Senior Superintendent Telegraph (Traffic), Bhopal v. Santosh Kumar Seal and Others* (2010) 2 SSC (L&S) 309 Hon'ble Apex Court has observed as under:

"However, in recent past, there has been a shift in the legal position and in a along line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.

The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wagers has not been found to be proper by this Court and instead compensation has been awarded."

20. In the light of principle laid down in aforementioned case laws and the facts and circumstances of the case, it would not be just and proper to direct that the workman be reinstated in service. The ends of justice would meet by paying compensation to the workman instead in place of relief of reinstatement in service.

21. Having regards to these facts that the workman has worked as casual worker and he was getting Rs. 2000 or Rs. 2040 per month the time of his alleged termination and keeping in view the entire facts of the case and the law, the interest of justice would be subserved, if, management is directed to pay lump sum amount of compensation only.

22. Accordingly, the management is directed to pay a sum of Rs. 80,000 (Rupees Eighty Thousand only) to the workman as compensation for termination of his services

in violation of section 25 F of the I.D. Act. The said amount shall be paid to the workman within 08 weeks of publication of the award, failing which; the same shall carry interest @ 8% per annum.

23. The reference is answered accordingly.

Lucknow

31st January, 2014

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 13 फरवरी, 2014

का०आ० 838.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस०सी०सी०एल० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, गोदावरीखन्नी के पंचाट (संदर्भ संख्या 18/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 13/2/2014 को प्राप्त हुआ था।

[सं० एल-22013/1/2014-आई आर (सी-II)]

बी०एम० पटनायक, डेस्क अधिकारी

New Delhi, the 13th February, 2014

S.O. 838.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Indus. Tribunal-cum-Labour Court, Godavarikhani (IT/ID/18/2007) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workman, which was received by the Central Government on 13.2.2014.

[No.L-22013/1/2014-IR (C-II)]

B.M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-VIADDL. DISTRICT & SESSIONS COURT, GODAVARIKHANI

PRESENT: Shri. G.V. Krishnaiah,
Chairman-cum-Presiding Officer
Wednesday, the 20th Day of November, 2013

INDUSTRIAL DISPUTE NO. 18 OF 2007

Between:—

Balla Jagadeeshwar, E.C. No. 1155531,
Ex. Gen. Mazdoor, GDK 9 Incline, S/o Odelu,
Aged about 45 years, R/o H. No. 11-2-159, Laxminagar,
8 Incline Colony, Godavarikhani, Dist. Karimnagar.

....Petitioner

And

1. The General Manager,
SCCo. Ltd. Ramagundam Area-II.

2. The Superintendent of Mines,
GDK 9 Incline, SCC Ltd.,
3. The Chairman & Managing Director,
SCC Ltd., Kothagudem.

.....Respondents

This Industrial dispute petition coming on before me for final hearing in the presence of Shri G. Komuraiah, Advocate, for the petitioner and Shri D. Krishna Murthy, Advocate, for the respondents, and the matter having stood over before me for consideration till this date, the Court passed the following:—

AWARD

1. This petition is filed U/Sec. 2-A(2) of I.D. Act to set aside the dismissal order dated 05.08.1998 passed by R-1 against the petitioner and to direct to reinstate the petitioner into service with all consequential benefits and back wages. The petitioner who worked as General Mazdoor in the respondent company was dismissed from service on the misconduct of unauthorized absence *vide* dismissal order dated 05.08.1998.

2. After the dismissal of the petitioner he kept quiet for almost 6½ years and then served demand notice on 10.03.2007 on the respondent for recommendation of his case. After receiving on demand notice on 12.03.2007 reply was given on 03.04.2007 that the notice is vague. Petitioner contended in his application that he maintained more than 180 musters every year from 1988 to 1994 and he was confirmed as General Mazdoor at the time scale during the year 1995. He further contended that in the year 1993 his wife filed a case for divorce and parents of the petitioner also filed for maintainance. Maintainance of Rs. 750 per month and Rs. 300 to the parents was ordered to be paid by the petitioner. Petitioner paid sum of Rs. 700 more to the parents as per settlement out of Court as his employment was on the ground of a dependant of his father. Petitioner suffered financially during the period 1995 to 1998 and as such he could not maintain the minimum number of musters during the year 1995, 1996 and 1997. Petitioner had to attend panchayats conducted by the elders of the community. Petitioner could not maintain minimum number of musters due to not granting of leaves. Petitioner attended the departmental enquiry on 28.7.1998 which continued on the next day. The enquiry was an eye wash and formality to strengthen the decision already taken by the management. Enquiry is one sided and biased. Order of the management remaining the petitioner is very harsh and an act of victimization. Petitioner was forced to draw some savings payable to him during the year 1998. Petitioner made several representations for reinstatement and he was ultimately called to appear before competent authority at Kothagudem on 08.11.2000. The matter is pending with the management and therefore the petitioner did not approach this Tribunal in time. In the meantime petitioner's wife was

granted divorce and petitioners parents died. Petitioner is now mentally and physically settled, hale and healthy to perform his duties in all respects. Therefore he served a demand notice on 09.03.2007 for which vague reply dated 12.03.2007 was given. Since there is a reasonable cause for the absence from his duties, he may be reinstated. Petitioner quoted three decisions in the petition itself.

3. Respondent No. 1 filed counter questioning the jurisdiction of the Tribunal on the ground that the respondent company is managed by Central Government. Regarding the absence of the petitioner, it is pointed out that in the year 1994 petitioner had put in 54 musters, 82 musters in the year 1995, 58 musters in the year 1996, 46 musters in the year 1997 and 28 musters in the year 1998 up to 23 October, 1998. As against minimum of 190 musters in a calendar year. Therefore he was charge sheeted for misconduct under the company stands under 25.25 *vide* order dated 03.04.1998 for which petitioner did not submit any explanation to the charge sheet. Petitioner participated in the departmental enquiry and pleaded guilty to the charges leveled against him. Therefore after issuing the show cause notice dated 10.09.1998 for which the petitioner did not submit explanation he was dismissed from service *vide* orders dated 05.11.1998. A decree against the petitioner for payment of maintainance to his parents and his wife is true and maintainance is deducted from the salary of the respondent and deposited in the Court. This has nothing to do with unauthorized absence of the petitioner. Petitioner is unable to place any valid reason like major ill health or accident. The departmental enquiry was conducted fairly when the petitioner did not chose to cross examination the management witness even though opportunity was given to him. Petitioner never communicated the reasons for his absence and did not seek any relief. Respondent company cannot put up with highly irregular employees since the attendance of the workers is very much essential to carry on production.

4. However interviews were conducted on 08.11.2002 to the ex-workmen who were dismissed on account of absenteeism from 01.01.1997 to 31.12.1999 as per memo of settlement dated 21.02.2000. The criteria for age consideration was an employee should be below age of 55 years as on 21.02.2000 and must have put in at least 190/240 musters (underground/surface) in 2 calendar years or 150/240 musters (underground/surface) in 4 calendar years during the period of 5 years preceding the year of dismissal. Since the petitioner did not fulfill the above criteria he was not recommended for reappointment. Petitioner moved the Tribunal after lapse of 9 years and therefore the petition may be dismissed.

5. On 04.08.2012 the departmental enquiry was held to be valid and binding on the charges. Subsequently the documents were on either side were marked. Ex W-1 to W-11 were marked on behalf of the petitioner. Ex.M-1 to M-8

were marked on behalf of the respondents. Ex.W-3 is the salary recovery order dated 11.01.1994 in MC No. 34 of 1993. Ex.W-4 is the salary recovery order dated 05.01.1994. Ex.W-5 is the charge sheet showing the unauthorized absent for the year 1997 and pointed out that during the year 1995-96 also attendance was poor with 82 and 52 attendance respectively and Ex.M-5 is the enquiry report. It clearly states that petitioner respectively and Ex.M-5 is the enquiry report. It clearly states that petitioner did not submit his explanation to the charge sheet. During the enquiry pay sheets from January 1997 to December, 1997, pay sheets from December, 1995 to December 1996 and attendance registers from January 1997 to December 1997 was verified in the presence of the petitioner. During the enquiry petitioner admitted his poor attendance during the years 1995, 1996 and 1997. The enquiry indicated the petitioner for charge against him. Then the enquiry report was sent to the petitioner and the acknowledgement for the same is marked as Ex. M-7. Petitioner did not submit representation to the show cause notice, then he was terminated. Thus the following undisputed facts emerge:

- (I) Petitioner did not give explanation to the charge sheet.
- (II) Petitioner did not put forth any valid reason for his absence except family disputes.
- (III) Petitioner did not reply to the show cause notice issued by the respondent regarding the disciplinary action taken against him.
- (IV) Petitioner was considered by the High Power Committee but he did not fulfill the entering for reinstatement.
- (V) Petitioner kept quiet for almost 9 years and received the savings consequent on his dismissal from service.

6. This is a strange case where the petitioner did not even look after his parents and he was paying maintenance to them. Once can understand disputes between the petitioner and his wife but neglecting parents reflects on the irresponsible attitude of the petitioner. Now the petitioner wants to take advantage of family disputes to explain his unauthorized absence. The reason put forth by the petitioner cannot be accepted as a valid reason.

7. Regarding the decisions cited on behalf of the petitioner, the first decisions reported in 1996 FLR Page 1582 between Richardson and Cruddas (1972) Ltd and Association of Engineering Workers & others. In this case the workman was irregular in attending his duties and was a habitual late comer. A charge sheet was issued by the employer to which workman's Advocate gave reply stated that the absence on the part of the workman was not deliberate. Regular enquiry was ordered and employee pleaded guilty in the enquiry. Charge sheet was served in

November, 1984 and workman was dismissed with effect from 13.02.1985. On 16.2.1985 petitioner sought reinstatement which the employer turned down. Conciliation proceedings failed. Then the dispute was referred to the Labour Court U/Sec. 10 of the ID Act. The Labour Court held that enquiry was valid. There was no deliberate breach of rules by the workman. It was found that the workman gave medical certificate along with leave application to the company. Under these circumstances the award of the Labour Court was upheld. It is apparent that the facts of the above case are completely different from the facts of this case.

8. The next decision is AIR 1987 Supreme Court Page No. 104 between Baldev Singh Vs. Presiding Officer, Labour Court, Patiala and another. This is case where the service of the driver of a bus belonging to the Roadways was terminated for causing damage to the roadways to the extent of Rs. 22.50 on account of some deviation in the route. Labour Court held that the punishment was disproportionate and granted relief of reinstatement with continuity of service but without back wages. The award of the Labour Court was upheld. Workman filed a Writ Petition in High Court of Punjab and Haryana which was dismissed. The Supreme Court upheld the order of the High Court. The facts of this case are completely different.

9. Third decision is AIR 1999 Supreme Court Page 698 between Neeta Kaplish Vs. Presiding Officer, Labour Court and another. In this case the workman was dismissed from service on the basis of the departmental enquiry. Labour Court recorded a finding that the enquiry was not conducted in accordance of the rules of the natural justice when the Labour Court gave an opportunity to the management to produce its evidence. Management did not produce any evidence on merits except producing the termination order. Workman reported no evidence as the management produced no further evidence. The main question that was considered by the Supreme Court was whether the Tribunal can call upon the management to justify the action taken against the workman. Whether enquiry has been held to be defective or held properly, it was also observed that the departmental enquiry having been held as invalid, the record produced by management constitutes fresh evidence. In these circumstances the matter was remanded to the Labour Court for fresh enquiry. This decision does not help the petitioner in any way in view of the admitted facts of the petitioner's case. Regarding delay also, it is to be observed that though limitation is not prescribed for invoking the jurisdiction of the Industrial Tribunal, petitioner has to approach to the Tribunal within a reasonable period. Therefore I do not find any merits in the plea of the petitioner.

10. Another decision cited on behalf of the petitioner in WAP No. 244 of 2013 regarding the guidelines of

re-engaging of contract employees, is entirely different situation and it is not applicable to the present case.

11. With regard to the memo of statement dated 21.02.2000, Photostat copy of which is filed it has already been considered by the respondent. Advocate for petitioner quoted three other decisions in the Written Arguments. Two decisions are not cited by way of placing the full decisions before this Tribunal. The decisions in Janardhan case in that WAP No. 244 of 2013 on the file of High Court of A.P. is already considered in the preceding paragraphs. Therefore, I have no hesitation to dismiss the petition.

Accordingly, the reference is answered against the petitioner.

12. In the result, this ID is dismissed.

Typed to my dictation, corrected and pronounced by me in the open court on this the 20th day of November, 2013.

G. V. KRISHNAIAH, Chairman-cum-Presiding Officer

For Workman :

-Nil-

For Management :

-Nil-

EXHIBITS

For workman :

Ex.W-1	Dt.	30.12.1995	Appointment order as General Mazdoor
Ex.W-2	Dt.	05.11.1998	Dismissal order
Ex.W-3	Dt.	11.01.1994	Letter issued to the petitioner by respdt., for recovery of Rs. 100 p.m., towards arrears under court attachment order in CrI. MP. No. 7138/1993 in MC No. 34/1993
Ex.W-4	Dt.	05.01.1994	Letter issued to the petitioner by respondent for recovery of Rs. 300 p.m.
Ex.W-5	Dt.	03.04.1998	Charge sheet.
Ex.W-6	Dt.	01.11.2000	Letter issued to the petitioner by respondent to attend High Power Committee at Head Office, Kathagudem.
Ex.W-7	Dt.	09.03.2007	Demand notice o/c.
Ex. W-8.	Dt.	-	Postal receipt No. 4771, 4772
Ex. W-9	Dt.	12.03.2007	Postal Ack. of R-3
Ex. W-10	Dt.	12.03.2007	Postal Ack., of R-2
Ex. W-11	Dt.	03.04.2007	Petitioner's representation rejection order.

For Management :

Ex. M-1 Dt. 03.04.1998 Charge sheet

Ex. M-2	Dt.	19.07.1998	Enquiry notice
Ex. M-3	Dt.	28.07.1998	Acknowledgement
Ex. M-4	Dt.	29.07.1998	Enquiry proceedings
Ex. M-5	Dt.	03.09.1998	Enquiry report
Ex. M-6	Dt.	10.09.1998	Show cause notice
Ex. M-7	Dt.	18.10.1998	Ack. to show cause notice
Ex. M-8	Dt.	05.11.1998	Dismissal order.

नई दिल्ली, 13 फरवरी, 2014

का०आ० 839.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस् सी सी एल् के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय गोदावरीखनी के पंचाट (संदर्भ संख्या 111/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 13.02.2014 को प्राप्त हुआ था।

[सं एल-22013/01/2014-आई आर (सी-II)]
बी० एम् पटनायक, डेस्क अधिकारी

New Delhi, the 13th February, 2014

S.O. 839.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Indus. Tribunal-cum-Labour Court, Godavarikhani (IT/ID/111/2004) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workman, which was received by the Central Government on 13.02.2014.

[No. L-22013/1/2014-IR(C-II)]
B.M. PATNAIK, Desk Officer.

ANNEXURE

BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-CUM-VI ADDL. DISTRICT & SESSIONS COURT, GODAVARIKHANI

PRESENT:

SRI G.V. KRISHNAIAH,
Chairman-cum-Presiding Officer.
Saturday the 23rd day of November, 2013

INDUSTRIAL DISPUTE No. 111 of 2004

BETWEEN:

Rekula Rajaiah, S/o. Mallaiah, Age: 42 years.
Ex-Coal Filler, E.No. 0932304, R/o. Eklaipur village,
Mandal Shankarapatnam,
Dist: Karimnagar. ...Petitioner

-AND-

The Chief General Manager,
Ramagundam Division-I,
Singareni Collieries Company Limited,
Godavarikhani, Dist.
Karimnagar (A.P.) ...Respondent

This Industrial Dispute petition coming on before me for final hearing in the presence of Sri P. Vishweshwar Rao, Advocate, for the petitioner and Sri D. Krishnamurthy Advocate, for the respondent, and the matter having stood over before me for consideration till this date, the Court passed the following:—

AWARD

1. This dispute is raised by workman who was coal filler in the respondent company and who was dismissed from service as per order dated 27.03.2001 on the ground of unauthorized absence. Subsequently petitioner filed this I.D.

The allegations in the petition are as follows:—

2. Petitioner was appointed as Coal Filler in the year 1981 and worked to the utmost satisfactions of his superiors till his illegal dismissal dated 29.03.2001. Petitioner met with an accident and due to his ill health and health problems he was compelled to be on leave. Consequently respondent issued a charge sheet to the petitioner on the ground of absenteeism without prior permission. Petitioner submitted his explanation but the respondent conducted an enquiry in an eye wash manner and dismissed the petitioner.

3. Petitioner met with an accident in the year 2001, fell seriously ill and could not perform his duties properly. Enquiry was conducted by one of the subordinate officers of the respondent company and enquiry was against the principles of natural justice. Therefore petitioner may be directed to be reinstated as Coal Filler with continuity service with all attendant benefit and full wages.

4. Counter was filed on behalf of the respondent denying the allegations and contended that the respondent company being a Central Government undertaking, this Tribunal has no jurisdiction regarding the specifications of the petitioner. The respondent says that during 1998 petitioner worked for 106 days, during the year 1999 worked for 87 days and during the year 2000, he worked for 57 days. He was issued charge sheet dated 10.03.2000 under clause 25(25) of approved standing year of the company for habitual absence of duties without sufficient cause. Petitioner submitted his explanation admitting his absence and stated that due to ill-health of his wife he could not attend his duties regularly during the year 1999. As the explanation is not satisfactory departmental enquiry was conducted on 19.06.2000 in which the petitioner participated. Petitioner did not choose to cross examine the management witnesses and admitted the charges leveled against him. He requested the management to excuse him and says that he will be careful in future. As charges against the petitioner are proved, show cause notice dated 03.12.2000 enclosing copy of enquiry report and proceedings was sent to the native address by registered post. That letter returned un-served. Later a letter

was published in Vaartha daily newspaper on 23.01.2001 advising him to collect the copy of show cause notice and enquiry report to enable him to make representation. Petitioner was dismissed *vide* order dated 27.03.2001 with effect from 29.03.2001. Charge sheet was issued in the month of March, 2000, but subsequent to that also he failed to improve his attendance. Petitioner did not apply for leave, he had not taken treatment either for himself for his family members in the chain of hospitals maintained by the respondent. If employees habitual abstaining from their duties production targets will not be achieved. Petitioner had withdrawn the terminal benefits payable to him and the master-servant relationship was already severed.

5. Preliminary issue was framed regarding the validity of the departmental enquiry. My predecessor appreciated the validity of the departmental enquiry as per order dated 09.04.2007. Subsequently the matter is once referred to Lok Adalat and the petitioner was offered appointing as Fresh Badli Filler and he did not agree for the settlement.

6. During the course of enquiry the following documents were marked on behalf of the petitioner.

(i) Mercy petition dated 17.11.2001 and dismissed order dated 17.03.2011. On behalf of the respondent, Ex. M-1 to M-10 are marked.

7. During the course of arguments, Advocate for petitioner cited some decisions in support of his case. First decision is (2002) 4 GLR 3199 between Gujarat State Road Transport Vs. Sarfudin K. Saiyad. In this case the workman was absent from 01.09.1983 and after charge sheet and departmental enquiry workman was dismissed from service from 08.03.1984. Workman was absent from 01.09.1983 to 01.10.1983 and after receiving charge sheet workman replied that he was suffering from malaria and he will attend duty after recovery from illness by producing necessary certificate. There was also material that workman was injured. The Labour Court granted reinstatement with continuity of service with 25% back wages. That award was challenged before the Gujarat High Court. This case is different on facts. It is to be noted here that that the Photostat copy of the decision cited on behalf of the petitioner is not available at the last page. Page Number 8 is inconclusive and two pages of 8 page numbers are given.

8. Second decision is also of the Gujarat High Court (2005) 1 GLR 187 between Virendrakumar Jayantilal Vs Gujarat Electricity Board from 01.04.2004. This case arose out of summary discharge of workman from service on the ground of continued absence despite warning to return to duty. The workman was discharged under Regulation 113 of Regulations governing the services of the workman. The validity of Regulations 113 was challenged before the High Court. One of the workman applied for leave. Before any decision could be taken on the same she went abroad and applied for extension of leave. The termination of

services were set aside. In that case there is a definition finding that Regulation 113 was applied in an arbitrary manner. Therefore this decision cannot be applicable to the facts of the present case.

9. Third decision is Indian Iron & Steel Company Ltd. Vs. Their Workmen reported in AIR 1958 Page 130. In this case the management declared lock out and discharged workers. Subsequently lock out was lifted. The principles that were considered regarding the power of the Industrial Tribunal to interfere in case of dismissal of workman by the company are as follows:—

1. When there is want of good faith,
2. When there is victimization or unfair labour practice,
3. When the management has been guilty of a basic error or violation of a principle of natural justice, or
4. When on the materials the finding is completely baseless or perverse.

10. On facts this decision is not applicable but the above principles can be considered in the present case. Admitted facts are as follows:—

1. Petitioner actually worked for 87 days in the year 1999 and 57 days in the year 2000. The working days in the year 2000 included the period subsequent to the issuing of charge sheet on 10.03.2000 regarding his poor attendance.
2. In the enquiry, petitioner submitted explanation which is marked as Ex- M-2. The explanation was submitted on 14.04.2000. The reasons given in the Ex. M-2, explanation is illness of the wife of the petitioner in the year 1999. It is also stated that she became lunatic and he had look after his 3 minor children. It is further stated that in the month of November, 2009, she became seriously ill and admitted in hospital. In the whole of December he was at her bedside. Petitioner further stated that she got her treated and she gained normalcy and he regularly appeared. There is no evidence from the side of the petitioner regarding the mental illness or other illness of his wife. This explanation was submitted in English language. During the enquiry also no material was placed in support of the reasons given in the explanation.
3. In the petition it is stated that the petitioner met with an accident and due to his ill health he was compelled to be on leave. When he was injured in an accident, is not mentioned in the petition in Para No. 2. In Para No. 2 (2) it is mentioned that the petitioner met with an accident in 2001 and not performed his duties properly. This is quite surprising as the charge sheet was issued in the year 2000 itself regarding absenteeism of petitioner. Even in these proceedings

petitioner did not place any material either regarding his illness or injuries due to accident or illness of his wife.

11. From the above it is clear that the petitioner failed to come forward with valid and consistent reason for his absenteeism. Any one of the four conditions to be fulfilled for interfering with dismissal are not present in the case of the petitioner herein.

12. The respondent has certain guidelines to absorb dismissed work again on the basis of certain criteria. Since the respondent came forward to appoint the petitioner as Afresh Badli Filler, the same offer can be considered. Further considering reasonable attendance of the petitioner during the years 1997 and 1998, he can be directed to appoint as "Afresh Badli Filler" subject to medical fitness. Petitioner is not entitled to any other relief.

13. In the result, the order of dismissal passed by the respondent is set aside. The respondent is directed to appoint the petitioner into service as "Afresh Badli Filler" subject to medical fitness. The petitioner is not entitled to any other relief.

Typed to my dictation, corrected and pronounced by me in the open court on this the 23rd day of November, 2013.

C.V. KRISHNAIAH, Chairman-cum-Presiding

Officer Appendix of Evidence

Witnesses Examined

For Workman : Nil
For Management : -Nil-

EXHIBITS

For workman :

Nil

For Management :

Ex. M-1	Dt.	10-03-2000	Charge sheet o/copy
Ex. M-2	Dt.	14-04-2000	Explanation to the charge sheet
Ex. M-3	Dt.	04-06-2000	Enquiry notice
Ex. M-4	Dt.	19-06-2000	No objection letter given to the enquiry officer conducting enquiry in English.
Ex. M-5	Dt.	19-06-2000	Enquiry proceedings
Ex. M-6	Dt.	21-06-2000	Enquiry report
Ex. M-7	Dt.	03-12-2000	Show cause notice
Ex. M-8	Dt.	23-12-2000	Un-delivered postal returned cover
Ex. M-9	Dt.	23-01-2001	News paper publication in the Vaartha Telugu
Ex. M-10	Dt.	27-03-2001	Dismissal order

नई दिल्ली, 13 फरवरी, 2014

का०आ० 840.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 07/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 13.02.2014 को प्राप्त हुआ था।

[सं एल-22012/206/2000-आई आर (सीएम-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 13th February, 2014

S.O. 840.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 07/2002) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of WCL, and their workman, received by the Central Government on 13.02.2014.

[No. L-22012/206/2000-IR(CM-II)]

B.M. PATNAIK, Desk Officer

ANNEXURE

BEFORE SHRI J.P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/07/2002

Date: 27.09.2013.

Party No. 1 : The Chairman-Cum-Managing Director, Western Coalfields Limited, Coal Estate, Civil Lines, Nagpur. (MS).

Party No. 2 : The General Secretary, Samyukta Khadan Mazdoor Sangh (SKMS), WCL Coal Estate, Civil Lines, Nagpur (MS).

AWARD

(Dated: 27th September, 2013)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of WCL and their workman Shri Bhikku Vishwanath & 149 others (as per list enclosed) for adjudication, as per letter No. L-22012/206/2000-IR(CM-II) dated 28.12.2001, with the following schedule:—

"Whether the action of the management of WCL, Nagpur in converting Sh. Bhikku Vishwanath & 149

others (as per list enclosed) PR loaders to TR/MR (Time Rated/Monthly Rated) category without protecting their P.R.—group wages, as per the Tripartite conciliation settlement dated 2.11.1992 is legal and justified? If not, to what relief they are entitled?"

2. On receipt of the reference, the parties were notices to file their respective statement of claim and written statement and accordingly, the Union, Samyukta Khadan Mazdoor Sangh (SKMS)", ("the union" in short) filed the statement of claim, on behalf of the workmen, Shri Bhikku Vishwanath & 149 others (as per list enclosed), ("the workmen" in short), and the management of WCL, ("Party No. 1" in short) filed their written statement.

In the statement of claim it was pleaded on the behalf of the workmen by the union that the workmen are entitled to full pay protection from the date of their conversion from loader to Time rated categories or in other categories.

3. The Party No. 1 filed the written statement denying the allegations made in the statement of claim and pleading *inter-alia* that the workmen are not entitled for any relief.

4. On 27.09.2003, the date on which the reference was fixed for adducing of evidence on affidavit for the side of the petitioner, the petitioner (the union representative who has filed the statement of claim on behalf of the workmen) filed an application supported with affidavit for permission to withdraw the case on the ground that the Party No. 1 was finally assured to find out a solution after mutual discussions with all the operative central trade unions and therefore, the union doesn't want to proceed with the case. Copy of the application was served on the advocate for the Party No. 1. As the petitioner did not want to proceed with the case, in the interest of justice, the application was allowed.

5. At the union (petitioner) who has raised the dispute on behalf of the workmen and has also filed the statement of claim doesn't want to proceed with the reference, the reference is liable to be dismissed without grant of any relief to the workmen. Hence, it is ordered:—

ORDER

The reference is dismissed as not pressed by the petitioner. The workmen are not entitled to any relief. No leave is also granted to the union or the workmen to raise the dispute again or to revive the present reference. The application supported with the affidavit and documents filed by the petitioner are made part of the award.

J.P. CHAND, Presiding Officer

नई दिल्ली, 14 फरवरी, 2014

का०आ० 841.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कांडला पोर्ट ट्रस्ट

के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं० 110/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 14.02.2014 को प्राप्त हुआ था।

[सं० एल-37011/3/2008-आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 841.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. 110/2010) of the Cent. Govt. Indus-Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of Kandla Port Trust and their workmen, received by the Central Government on 14/02/2014.

[No. L-37011/3/2008-IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

PRESENT: BINAY KUMAR SINHA,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad, Dated 22nd October, 2013

Reference: (CGITA) No-110/2010
Reference: (I.T.C) No. 1680/2008 (Old)

The Chairman,
Kandla Port Trust,
Post Box No.-50,
Gandhidham, Kutch (Gujarat)

AND

Their Workman
Through The General Secretary,
Transport & Dock Workers Union, 21,
Yogesh Building Plot No. 586,
12-C, Gandhidham,
Kutch-370201

For the 1st party: Shri Yogi Kishor Gadha, Advocate
For the Second Party: None

AWARD

The Central Government/Ministry of Labour, New Delhi *vide* adjudication order No. L-37011/3/2008 (IR (B-II) dated 01.09.2008 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) on the terms of reference in the Schedule:

SCHEDULE

"Whether the action of the chairman, Kandla Port Trust, A.U. Building, P.O. Box No. 50, Gandhidham, Kutch in forcibly asking to operate heavy duty pumps provided at Oil Jetties and not paying operational allowances to the Pump Operator-cum-Drivers of the Brigade section is legal and justified? What relief the pump operator-cum-Drivers are entitled?"

2. Even upon notice by the Industrial Tribunal, Ahmedabad, the 2nd party (Union) neither appear nor filed statement of claim. When the case record received in this CGIT-cum-Labour Court on transfer by order of M.O.L., New Delhi again fresh notice were sent to the parties and the 1st party (K.P.T) appeared and filed Vakilpatra in favour of Gadhia Associates *vide* Ext.3, but the 2nd party (Union) failed to appear in this case.

3. The 2nd party (Union) who raised the Industrial dispute is duly bound to file statement of claim since burden of proving that the action of the management of K.P.T. in not paying operational allowances to the Pump Operator-cum-driver of fire Brigade section is illegal, is upon the 2nd party (Union). But the 2nd party has lost interest in this case. So the reference is fit to be dismissed.

The terms of reference is answered in favour of the 1st party that the action of the chairman, K.P.T. in forcibly asking to operate heavy duty pump provided at Oil Jetties and not paying operation allowances to the Pump operator-cum-Driver of Fire Brigade is legal and justified.

This Reference is, therefore, dismissed.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 14 फरवरी, 2014

का०आ० 842.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एल आई सी ऑफ़ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं० 312/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 14.02.2014 को प्राप्त हुआ था।

[सं० एल-17012/45/99-आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 842.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. No. 312/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of LIC of India and their workmen, received by the Central Government on 14/02/2014.

[No. L-17012/45/99-IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

PRESENT : BINAY KUMAR SINHA,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad, Dated 24th December, 2013

Reference: (CGITA) No-312 of 2004

Reference: (I.T.C) No. 73/2000 (Old)

The Senior Divisional Manager,
L.I.C. of India, Jeevan Prakash,
Behind Telephone Exchange,
Ch Road, Sector-II,
Gandhinagar-382010

.... First party

AND

Their Workman
Shri Rajendrakumar Manilal Bhutedia
Outside Makrani Darwaja,
Bhangiva, Vijapur,
Mehsana (Gujarat)

.... Second Party

For the 1st party: Shri Kishor V. Gandhia, Advocate

For the 2nd party: None

AWARD

The Central Government/Ministry of Labour, New Delhi by its order No. L-17012/45/99 (IR (B-II) dated 22.06.2000 in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of the Industrial Disputes Act, 1947 referred the dispute for adjudication of Industrial Tribunal, Ahmedabad (Gujarat) on the terms of reference in the Schedule:

SCHEDULE

"Whether the action of the management of LIC of India in appointing Shri Rajendra Kumar Manilal Bhutedia for 120 days period and thereafter appointing another workman and so on against the vacancies of peons not filled up due to ban on recruitment of permanent peons under LIC (Employment of temporary staff) instructions, 1993 is legal and justified? if not then to what relief the concerned employee is entitled to?"

2. The workman 2nd party in spite of notice failed to appear and to file statement of claim whereas 1st party (employer) appeared in response to notice and on the pursis (Ext. 9) of the 1st party dated 19.01.2001 that the workman is not present and has not filed statement of claim, order was passed below Ext. 9 as to dismissing the reference and

thereafter award dated 30.01.2001 was passed that due to absent of workman the reference is set side and dismissed without any cost *vide* Ext. 10. Thereafter on filing of misc. application by the workman *vide* misc. case No. 5/2001 in reference (I.T.C.) No. 73/2000, the misc. case was allowed after hearing both sides lawyer *vide* order (Ext. 11) passed on 23.03.2004 and the reference. (I.T.C. No. 73/2000, was restored to original file and number directing the applicant/workman to submit his statement of claim. The workman executed power (Vakilpatra) in favour of Shri B.B. Thesia, Advocate (Ext. 12). But thereafter again failed to submit statement of claim whereas the 1st party remained in attendance through its lawyer on date. Even giving several adjournments the workman and his lawyer remained absent.

3. There is reasons to believe that the workman has lost interest in this reference and failed to submit statement of claim. As such following order is passed.

ORDER

The terms of reference in the schedule is answered in the affirmative justifying the action of the management of LIC of India.

The reference, is therefore, dismissed. No order of cost.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 14 फरवरी, 2014

कांआ 843.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई के पंचाट (संदर्भ सं० 33/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 14.02.2014 को प्राप्त हुआ था।

[सं० एल-12011/05/2012-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 843.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. 33 of 2012) of the Cent. Govt. Indus. Tribunal-cum-Labour Court-I, Mumbai as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 14/02/2014.

[No. L-12011/05/2012-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 MUMBAI

PRESENT : JUSTICE G.S. SARRAF, Presiding Officer

Reference No. CGIT 1/33 of 2012

Parties: Employers in relation to the management of State Bank of India

And

Their Workman (Devdatta V. Prabhu)

Appearances:

For the first party: Mr. Nadkarani, Adv.

For the Union: Mr. Umesh Nabar, Adv.

State: Maharashtra

Mumbai, dated the 7th day of March, 2013

AWARD

This is a reference made by the Central Government in exercise of its powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act 1947. The terms of the reference given in the schedule are as follows:

"Whether the action of the management of State bank of India, Thane in considering that Shri Devdatta V. Prabhu has voluntarily retired from service *w.e.f.* 13.8.2008 *vide* their order dated 26.2.2009 is legal and justified? To what relief the workman is entitled?"

2. According to the Statement of claim the workman Devdatta V. Prabhu joined the State Bank of India (hereinafter referred to as the Bank) on 26.10.1986 and was confirmed on 27.4.1987 as messenger. He proceeded on leave on and from 12.1.2008 intimating about his wife's serious illness. He could not report for duty and this was taken as deemed voluntary retirement by the Bank without giving him any opportunity of being heard. The Bank was made aware that there was nobody to look after his wife and he had no intention to abandon the employment or voluntarily retire from service. Thus there was no ground for invoking the provisions of clause 33 of the 8th Bipartite Settlement. After final notice was served upon the workman on 26.2.2009 he reported for work within 30 days *i.e.* on 23.3. 2009 with explanation as well as medical certificate but the Bank did not allow him to resume his duties. It has, therefore, been prayed that the Bank be directed to reinstate the workman with effect from 13.8.2008 with full back wages, continuity of service and all consequential benefits.

3. According to the written statement the leave record of the workman was for from satisfactory and several memos were issued to him on account of his unauthorised absence. Clause 33 of the 8th Settlement stipulates that when an employee absents from work for a period of 90 or more consecutive days without prior sanction from the

Competent Authority or beyond the period of leave sanctioned Originally including any extension thereof or where there is satisfactory evidence that he has taken up employment in India or outside, the management at any time thereafter may give a notice to the employee at his last known address calling upon him to report for work within 30 days of the date of notice. Unless the employee reports for work within 30 days or gives an explanation for his absence satisfying the management that he has not taken up another employment or vocation, the employee shall be given a further notice to report for work within 30 days failing which the employee will be deemed to have voluntarily vacated his employment on the expiry of the said notice. The workman was unauthorisedly absent from duty from 12.1.2008. The Bank, therefore, issued notice dt. 2.6.2008 to the workman as the workman did not report for duty despite the communication. A further notice dt. 12.7.2008 was sent to the workman. Both the notices were sent to the workman at his last known address but were returned by the postal authorities with the remark 'left'. As the workman did not report for duty by 12.8.2008 the workman was deemed to have voluntarily retired from service on 13.8.2008 and this position was communicated to the workman *vide* Banks's memo dt. 26.2.2009. According to the written statement the Union has raised dispute after a period of 26 months and thus the Union is now estopped from questioning the Banks' action. According to the written statement the workman at no point of time during his unauthorised absence from 12.1.2008 till his deemed retirement sent any application or intimation to the Bank about the reasons for his absence. The Bank has, therefore, prayed that the reference be answered in favour of the Bank.

4. The workman has filed an application on 25.2.2013 that the workman and the Union do not desire to prosecute this reference and lead evidence and that the reference be dismissed as withdrawn by the Union.

5. In view of the above application the action of the Bank appears to be legal and justified.

6. The workman is, therefore, not entitled to any relief.

Award is passed accordingly.

JUSTICE G.S. SARRAF, Presiding Officer

नई दिल्ली, 14 फरवरी, 2014

का.आ. 844.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार न्यू बैंक ऑफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (52/93) प्रकाशित करती है जो केन्द्रीय सरकार को 14.02.2014 को प्राप्त हुआ था।

[सं एल-12012/352/92-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 844.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 52/93) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of New Bank of India and their workman, received by the Central Government on 14.02.2014.

[No. L-12012/352/92-IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/52/93

PRESIDING OFFICER: SHRI R.B. PATLE

Shri Manohar Chandwani,
New B-29, Qr. No. 318,
Gidwani Park,
Bairagarh,
Bhopal

.....Workman

Versus

Regional Manager,
New Bank of India,
Press Complex,
Bhopal

.....Management

AWARD

Passed on this 27th day of September 2013

1. As per letter dated 3.3.93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-12012/352/92-IR (B-II). The dispute under reference relates to:

"whether the action of the management of New Bank of India, Bhopal in terminating the services of Shri Manohar Chandwani *w.e.f.* 15.4.91 is justified or not? If not, what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Case of workman is that he was working as clerk cum typist in the Bank of India, Bhopal branch. Chargesheet was issued to him about misappropriation of Rs. 40,500 from Account of M/s. Johnson Agencies. Cheque No. 224498 bearing forged signature was issued.

Cheque was Account Payee. The amount of cheque was paid. Amount was deposited under D.D. No. 228636 and 44550 on 3.12.1989. Though charges were denied by him, he was suspended during pending enquiry. It is alleged that he was forced to admit the charges assuring that enquiry would be completed at the earliest and the suspension would be revoked. His financial condition was poor. Under such circumstances, he was forced to admit the charges. That there is no question of receiving amount under the cheque. That enquiry conducted against him was not proper. Signatures on cheque were sent for verifying before payment to holder. That he was acquitted in the Criminal case No. 319/90 on 15.11.91. That he was not given opportunity for his defence in enquiry proceedings. Principles of natural justice were not followed. Punishment of dismissal were legal. On such grounds, he prays for reinstatement with consequential benefits.

3. IInd party filed Written Statement at Page 13/2 to 13/5. Preliminary objection is raised by IInd party that the disciplinary action is taken against Ist Party workman as per bipartite settlement. Penalty imposed is proper. That Ist party workman had died on 10.1.94. The workman is not entitled to any relief. That Ist party was working as clerk cum typist in the Bank. On 1.12.89, he removed one signed cheque from account of M/s. Johnson Agency and withdraw amount of Rs. 40,500/- thus the Ist party workman had committed gross misconduct withdrawing the amount. Chargesheet was issued by the Bank. As per Bipartite settlement enquiry was conducted against him. Workman admitted misconduct on his part. Enquiry Officer submitted his report. Showcause notice was issued to him. Considering the gravity of misconduct, punishment of dismissal was imposed. The principles of natural justice were followed. IInd party prayed for rejection of claim of workman.
4. Workman died during pendency. His LRs are brought on record. The enquiry was held properly and legally as per order dated 23.4.96. My predecessor had passed award on 18.5.98 setting aside the order of dismissal of Ist party workman directing his reinstatement etc. The said award was challenged by management of IInd party in W.P. No. 4656/98. The matter is remanded by Hon'ble High Court observing that it was obligatory to consider perversity of findings and quantum of punishment.
5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- (i) Whether the alleged misconduct on part of

deceased Ist party is proved from evidence and whether findings of Enquiry Officer are perverse?

- (ii) Whether punishment of dismissal imposed against deceased workman is proper? Affirmative
- (iii) What order as to relief? Workman is not entitled to any relief.

REASONS

6. As discussed above, the enquiry conducted against workman was found legal and proper. The matter is remanded for decided perversity of the findings of Enquiry Officer and quantum of punishment. The record of Enquiry Proceeding is produced at Page 90 of Enquiry Proceedings, deceased delinquent has admitted charges against him. At Page 90 also charges were again explained, he has voluntarily admitted the charges. The enquiry conducted against workman is found legal. There is no evidence to hold that admission of charges by deceased workman suffered from any kind of illegality. Therefore I record my finding in Point No. 1 in Affirmative.
7. Point No. 2 is whether the punishment of dismissal imposed against deceased workman is proper or not? The charges against deceased workman were related to withdrawal of amount under the cheque from account of M/s. Johnson Agencies. The deceased workman had admitted the charges. The misconduct is of serious nature.
8. Learned counsel for IInd party Shri N.B. Sharma submits that when the charges proved relates to misappropriation, punishment of dismissal cannot be interfered. In support of his arguments, learned counsel relies on ratio held in—

Case of Janatha Bazar (South Karara) Central cooperative Wholesale Stores Ltd. and others *versus* Secretary, Sahakari Nourara Sangha and others reported in 2000(7) Supreme Court Cases 517. The Lordship of Apex Court dealing with scope of judicial review under Section 11-A of I.D. Act considering the charge of misappropriation of goods was established in domestic enquiry and the delinquent employee was dismissed. The Lordship held erred in directing his reinstatement with 25% back wages on the ground that his past record was without blemish. Their Lordship held proved case of misappropriation does not call for any sympathy.

Next reliance is placed on ratio held in case of Narendra Nath Bhalla *versus* State of Uttar Pradesh

and others reported in 2007(15) Supreme Court Cases 775. Their Lordship of the Apex Court dealing with judicial review in matter of Departmental Enquiry held charges of misappropriation of money and issuing false receipt on plain paper proved against appellant in departmental enquiry, money appropriation given back by appellant. Merely repayment of money would not absolve him of the serious charges proved.

Considering ratio in above cases and the serious charges of misappropriation of amount proved as per report of Enquiry officer as per admission by the deceased workman, the punishment of dismissal from service cannot be said disproportionate. No interference is called for. For above reasons award is passed as under:—

- (1) Action of the management of New Bank of India, Bhopal in terminating the services of Shri Manohar Chandwani *w.e.f.* 15.4.91 is legal.
 - (2) Relief prayed by workman is rejected.
9. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

R. B. PATLE, Presiding Officer

नई दिल्ली, 14 फरवरी, 2014

कांआ 845.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ़ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 386/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 14.02.2014 को प्राप्त हुआ था।

[सं एल-12011/18/2001-आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 845.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award Ref. No. 386/2004 of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure in the Industrial Dispute between the management of Central Bank of India and their workmen, which was received by the Central Government on 14/02/2014.

[No. L-12011/18/2001-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
AHMEDABAD**

Present: Binay Kumar Sinha,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 7th October, 2013

Reference (CGITA): 386/2004

Reference (ITC): 315/2008

The Dy. General Manager,
Central Bank of India,
Zonal Office, Lal Darwaja,
Ahmedabad (Gujarat) 380001

.....First Party

And

Their Workman
Shri Harish A. Vaghela
Through the General Secretary,
Central Bank Staff Union,
C/o. Central Bank of India
Lal Darwaja Branch
Ahmedabad (Gujarat) 380001

....Second Party

For the First Party:-Shri K.J. Macwan, Advocate

For the Second Party:-Shri Jayantilal J. Shah, Advocate

AWARD

The Central Government/Ministry of Labour by its order No.-L-12011/18/2001/IR(B-II), New Delhi dated 27.04.2001 under Cl. (d) of sub-section (1) and sub-section (2A) of Section 10 of the I.D. Act, 1947 referred the dispute for adjudication to Industrial Tribunal, Ahmedabad (Gujarat) under the terms of reference in the Schedule:—

SCHEDULE

"Whether the action of the management of Zonal Manager, Central Bank of India, Zonal Office, Ahmedabad in denying officiating allowance to Shri H.A. Waghela, AC Plant Helper, Gandhi Road Branch, Ahmedabad *w.e.f.* 07.08.1996 is legal and justified? If not, then what relief the concerned employee is entitled to?"

2. The case of the workman (2nd party) as per statement of claim (Ext. 4) is that H.A. Waghela a sub staff was working as AC plant helper at Gandhi Road branch of Central Bank of India and was forced to work as Air condition plant operator from 07.08.1996 as per the written order of the employer (Bank). He was performing extra duties of AC plant operator without being paid officiating allowance against the bipartite settlement-If a member of subordinate staff officiates in clerical cadre he shall be paid officiating allowance. "The Union (2nd party) raised demand on 18.09.2000-Mr. Vaghela working as AC plant operator at Gandhi Road branch must be paid salary and wage as being paid for identical duties in other branches at Ahmedabad from 07.08.1996". No reply from Bank with

regard to the demand and so dispute was referred to conciliation officer and on failure report to appropriate authority followed by reference for adjudication. Further case is that at Ahmedabad three branches of Central Bank of India have Air Conditioner plants-(1) Lal Darwaja (2) Maskati Market and (3) Gandhi Road Branch. The post of air condition plant operator is in clerical cadre and AC plant operator are posted at Laldarwaja Maskali branch but no AC plant operator in clerical cadre is posted at Gandhi Road branch. But workman Harish A. Vaghela is performing the duties of A.C. plant operator at Gandhi Road branch but is not being paid officiating allowance. But in the past such officiating allowance was paid by the management of the 1st party to the A.C. plant helper working at Zonal office at Ahmedabad. On these scores prayer is to direct management of Central Bank of India to pay officiating allowance to Shri H.A. Vaghela A.C. plant helper, applicable to clerical staff and he be paid salary and wages as being paid for identical duties in other branches at Ahmedabad from 07.08.1996 with cost.

3. As against this, the contention of the 1st party as per written statement (Ext. 7) is that the grievance made by the second party wholly unjustified, erroneous and contrary to the provisions of the bipartite settlement and the reference is not maintainable. The case of the 1st party is that Shri Harish A. Vaghela joined the 1st party bank as subordinate staff *w.e.f.* 01.10.1982. He subsequently engaged as liftman cum peon *w.e.f.* 01.09.1983. subsequently he was selected as air conditioning plant helper *vide* order dated 27.02.1993 and he was asked to work as an air conditioning plant helper at the Muskati market branch at Ahmedabad. Thereafter Shri Vaghela was transferred as an air conditioning plant helper to Gandhi Road branch *w.e.f.* 01.07.1996 Gandhi Road branch of Central Bank of India is a very small branch of the bank and considering the requirement of work regarding overall repairing and maintenance of the air conditioning plant at Gandhi Road branch as an air conditioning plant helper Shri Vaghela was asked to operate the A.C. plant *vide* order dated 07.08.1996 and the duty of Shri Vaghela was to switch on and off the air conditioning plant once in a day. Such decision was taken by the management of 1st party keeping in view that there was no regular sanctioned post of air-conditioning plant operator a clerical cadre, Gandhi Road branch, Ahmedabad. Further decision was taken by the management of the 1st party to provide special allowance of Rs. 524/- per month to Shri Vaghela working as AC plant helper. Further contention is that in the absence of the existence of a regular sanctioned post of A.C. Plant operator at Gandhi Road branch, Ahmedabad, Shri Harish A. Vaghela cannot claim officiating allowance as a matter of right. More so, the provision of bipartite settlement would apply only in a case of a person who officiates in the higher cadre on a regular sanctioned post. On these score, prayer is that the reference is devoid of merit and is fit to be rejected.

4. In view of the rival contention of the parties the following issues are taken up for determination and adjudication of the case?

ISSUES

- (i) Is the reference maintainable?
- (ii) Whether the 2nd party (workman/Union) has got valid cause of action to raise dispute?
- (iii) Whether Shri Harish A. Vaghela is entitled to get officiating allowance of air conditioning plant operator in addition to his duty of A.C. Plant helper *w.e.f.* 07.08.1996 at Gandhi Road branch of the 1st party?
- (iv) What orders are to be passed?

FINDINGS

5. **ISSUE NO. III:** The 2nd party with a list dated 24.04.2006 (Ext. 18) produced eleven documents upon which the 1st party lawyer on 10.10.2008 endorsed no objection as to documents as Sl. Nos. 2, 5, 6, 7, 8, 9, 10 (7 documents) and so those were marked Ext. 22, 23, 24, 25, 26, 27 and 28. Subsequently documents at Sl. No. 3, 4 and 11 were marked Ext. 32, 33 and 34 respectively on 04.03.2010. The workman deposed in oral evidence (*vide* Ext. 19). His examination in chief was held on two dates 20.04.2006 and on 04.03.2010 and thereafter his cross examination by the 1st party was made on 09.04.2010. In the meantime, the 2nd party again filed 9 documents as per list Ext. 29 on 18.12.2008 and seven documents were taken in documentary evidence with objection of the 1st party and were marked Ext. 35, 36, 37, 38, 39, 40 and 41 on 04.03.2010.

On the other hand, the 1st party has relied upon four documents by a list (Ext. 44) and were produced on 04.10.2012 and its copy furnished to the 2nd party having endorsed no objection.

7. Now coming to examine the documents of the 2nd party. Ext. 22 is letter dated 20.04.1987 of chief officer. Central Bank of India addressed to Mr. S.L. Ellis, A.C. Plant helper, Zonal Office, Ahmedabad, informing that whenever you work as A.C. plant operator, you will be given officiating allowance as per Bipartite settlement. This is not disputed that at Ahmedabad there were two regular sanctioned post of A.C. Plant operator one at Zonal Office and 2nd at Muskati Market branch. This Ext. 22 shows that as there was sanctioned post of A.C. Plant operator at Zonal office and during leave of A.C. Plant operator Mr. S.L. Ellis, a sub staff (A.C. plant helper) was officiating so he was allowed officiating allowance. Ext. 32 is letter dated 02.06.1987 that go to show that Mr. Ellis, A.C. plant helper had officiated from 03.06.1987 to 05.06.1987 as A.C. Plant operator. Ext. 33 is office order dated 11.04.1989 of the 1st party shows that Mr. S.L. Ellis, A.C. Plant helper was directed to report for his duty at Muskati Market branch till regular A.C. plant

operator Mr. Patel reports his duty at Muskati branch and he will be paid officiating allowance. This goes to show that as there was also sanctioned post of A.C. Plant operator at Muskati branch of Central Bank of India and so Mr. Ellis was allowed officiating allowance for certain period. Further, it is not disputed that Gandhi Road branch of Central Bank of India, Ahmedabad had no regular sanctioned post of A.C. Plant operator. *Vide* Ext. 23, the workman Harish A. Vaghela vide 1st party letter dated 18.02.1993 was called in interview for selection of A.C. plant helper and *vide* Ext. 24 dated 27.02.1993 he was selected for the post of A.C. Plant helper and was posted to work as A.C. plant helper at Muskati Market branch and was provided with special allowance of Rs. 276/- per month. Ext. 25 is office order of 1st Party relieving Mr. Vaghela on 27.02.1993 from Zonal office and to join at Muskati market branch on 28.02.1993. Ext. 26 is office order of Muskati branch of Central Bank of India dated 29.06.1996 regarding transfer of Harish A. Vaghela, A.C. plant helper to Gandhi Road Branch on the same post was relieved on 29.06.1996 after office hours directing to report on duty on 01.07.1996. Ext. 27 is office order of Gandhi Road Branch, Ahmedabad of Central Bank of India dated 07.08.1996 directing him duty for routine maintenance and repairing works of A.C. plant in addition to all other duties as specified in Bipartite settlement amended from time to time and directing him to on A.C. plant at 10:30 a.m. and close at 4:45 p.m. and to close at 2:00 p.m. on Saturday. Ext. 28 is reply letter of Gandhi Road branch to Harish A. Vaghela that his letter for getting officiating allowance of A.C. plant operator for Gandhi Road branch was forwarded to Regional office and it has been conveyed that there is no sanctioned post of A.C. plant operator at Gandhi Road branch and so officiating allowance cannot be given to Mr. Vaghela. Now coming to examine the document of the 1st Party *vide* Ext. 44/1 which is letter of Ahmedabad Regional office addressed to Gandhi Road branch dated 08.10.1996 A.C. plant at Gandhi Road branch can be maintained by a Helper (A.C. Plant helper) and so we have provided a helper special allowance of Rs. 524 per month for additional operation of switching on and switching off only as there is no vacancy for any A.C. plant operator. Ext. 44/1 proves that for performing duties of A.C. plant helper as per office order dated 07.08.1996 (Ext. 27) Shri Harish Vaghela was also getting Rs. 524/- per month as special allowance. Ext. 44/2 is copy of vacancies dated 09.03.1992 for the post of Air Condition plant helper and as per this vacancies Shri H.A. Vaghela was selected as A.C. plant helper as per Ext. 24 having responsibilities for routine maintenance and repairing of A.C. plant of the Bank. Ext. 44/3 is vacancy dated 27.03.1987 for the post of A.C. plant operator in clerical cadre at Zonal Office, Ext. 44/4 is letter of Voltas Limited addressed to Asst. General Manager, Zonal office, Ahmedabad, Central Bank of India on the subject as to installation of 2 No. 7.5 TR, split type Air cooled package units in 1995 at Gandhi Road Branch and the same is under annual maintenance service control and the person with

minimum qualification of wireman can operate these units and no requirement of skilled grade person/Engineer. This also goes to the support the 1st Party that there was no requirement of skilled person rather there was duty of Mr. Harish A. Vaghela to switch on and switch off of A.C. plant at Gandhi Road Branch.

8. Ext. 35 is copy of appointment letter dated 18.02.1983 of Gopal Paras Jayantilal and posting at Regional office, Lal Darwaja of Central Bank of India, on the post of air conditioning plant operator at Zonal/Regional office, Lal Darwaja, Ahmedabad in clerical cadre. This goes to show only that due to regular sanction of post of Air conditioning plant operator at Zonal office, Lal Darwaja, Ahmedabad, appointment and posting in clerical cadre was made. Ext. 36 is certificate dated 12.05.1984 granted by Chief Officer (P&S) Central Bank of India, Regional office, Lal Darwaja, Ahmedabad to Shri Harish A. Vaghela regarding gross salary for the month of April 1984. This does not go to prove his case for demand of officiating. Pay of A.C. plant operator to him. Ext. 37 is copy of vacancy dated 27.03.1987 for the post of A.C. plant operator at Zonal officer. This is the same document as that of 1st Party at Ext. 44/3. Requisite qualification of A.C. plant operator in clerical cadre in having a diploma in air conditioning. This does not help to the 2nd party. Ext. 38 is duty order of A.C. plant helper dated 02.07.1996 at Gandhi Road branch that he will start A.C. Plant Monday to Friday and on Saturday close it at 2:00 p.m. This shows that H.A. Vaghela designation was of A.C. plant helper at Gandhi Road branch. Ext. 38 dated 07.08.1996 is same document as that of 27 already discussed. Ext. 39 is dated 11.05.1999 also same document as that of Ext. 34 already marked. Through this office order of Gandhi Road branch of Central Bank of India workman H.A. Vaghela was instructed to attend Maskati Market branch from 13.05.1999 to 08.06.1999 along with his duties here as A.C. operator of Maskati Market branch is going on leave during the above period and he was allowed Auto charges for the duties at Maskati Market branch during 13.05.1999 to 08.06.1999. Ext. 40 is reply of Zonal office of Central Bank of India, Lal Darwaja, Ahmedabad to ALC(C) that there is no provision in bipartite settlement for payment of any officiating allowance to sub-staff for performing the higher duties in clerical cadre as claimed by Union and the member concerned (indicating to Mr. H.A. Vaghela) is working as A.C. plant helper only and that only two branches, Zonal and Muskati Market branch are having post of Air conditioning plant operator. There is no justification for creating such post at Gandhi Road branch.

9. More so, the Union has raised dispute demanding for officiating allowance of A.C. plant operator to Sh. Harish A. Vaghela, helper at Gandhi Road Branch only and so Ext. 34/39 is of no avail for strengthening demand of officiating allowance for his duties for the period 13.05.1999 to 08.06.1999 at Maskati Market branch along with his duties of A.C. plant helper at Gandhi Road branch for which he

was getting special allowance of Rs. 524/- per month. He was allowed Auto charges during period 13.05.1999 to 08.06.1999 also. The deputation for that period along with his duty at Gandhi Road branch was made by office order of Gandhi Road branch and not by Zonal/Regional office, Ahmedabad. So even for that period Shri Harish A. Vaghela is not entitled for officiating allowance of A.C plant operator for his duties at Muskati Market branch. Ext. 22, 32 and 33 concerning duties/office order for Mr. S.L Ellis A.C. plant helper at Zonal office, Ahmedabad do not go to help as to claim of officiating allowance to Mr. H.A. Vaghela performing duties of helper at Gandhi Road branch having no regular sanctioned post of air conditioning plant operator in clerical cadre.

10. As per discussion above of all the documentary evidence, I find that those documents do not go to help the workman Harish A. Vaghela raising dispute through Union for officiating allowance of A.C. plant operator at Gandhi Road branch of Central Bank of India. So the oral evidence of Harish A. Vaghela (Ext. 19) is also not going to strengthen his such claim. His oral evidence that he has been deprived of grant of officiating allowance by the 1st Party is of no avail in view of the documentary evidence scrutinised above and more so, even as per Bipartite settlement Shri Harish A. Vaghela A.C. plant helper at Gandhi Road branch (being subordinate staff) was not officiating in clerical cadre (A.C. plant operator) at Gandhi Road branch of the 1st Party has no regular sanctioned post of air conditioning plant operator.

11. So after examining the evidences and material discussed above, I am of the considered view that the demand raised by Shri Harish A. Vaghela through Union (the 2nd Party) for getting officiating allowance of Air conditioning plant operator at Gandhi Road branch, Ahmedabad is devoid of any merit and so the 2nd Party is not entitled to get officiating allowance as claimed *w.e.f.* 07.08.1996. This issue is, therefore, decided against the 2nd Party Union/workmen.

12. **ISSUE No. I and II:**— In view of the findings in the foregoings, I further find and hold that this reference is devoid of any merit and is not maintainable and the 2nd Party (Union/workmen) has no valid cause of action to raise dispute.

13. **ISSUE No. IV:**— the reference is dismissed on contest by the 1st Party (Management of Bank). No order as to cost.

As such the terms of reference is answered in favour of the 1st Party that the action of the management of Zonal Manager, Central Bank of India, Ahmedabad in denying officiating allowance to Shri Harish A. Vaghela, A.C. Plant helper, Gandhi Road branch, Ahmedabad *w.e.f.* 07.08.1996 is legal and justified and the 2nd Party is not entitled to any relief.

This is my award.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 14 फरवरी, 2014

का०आ० 846.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार देना बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (53/93) प्रकाशित करती है जो केन्द्रीय सरकार को 14.02.2014 को प्राप्त हुआ था।

[सं एल-12012/355/92-आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 846.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 53/93) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the industrial dispute between the management of Dena Bank and their workman, received by the Central Government on 14/02/2014.

[No. L-12012/355/92-IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/L.C/R/53/93

PRESIDING OFFICER : Shri R.B. Patle

Shri Sanjay Waman Kale,
Gram Bhonsa, Post Kalimati,
Tehsil Aamagaon,
Disit. Bhandara,
Maharashtra

...Workman

Versus

Dy.Regional Manager (Dev.),
Dena Bank.
Nashik Region

...Management

AWARD

Passed on this 11th day of November 2013

1. As per letter dated 3-3-93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/355/92-IR-B-II. The dispute under reference relates to:

"Whether the claim of Shri Sanjay Waman Kale that he was an employee of Dena Bank is correct? If so,

whether action of the management of Dena Bank in terminating his services is justified? If so, what relief, if any, is Shri Sanjay W.Kale is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist Party workman filed statement of claim at Page 1 to 2, Case of workman is that he was appointed by management as Driver from 26-6-91. The appointment was given after due scrutiny for post of Driver. He was paid wages Rs. 950 per month and Rs. 20 daily allowance. He was required to work from 9.30 AM including Sundays. He worked continuously for 380 days in the Bank. He was required to work as Driver of the Car of Dy. Regional Manager. Rest of the time he was required to do other works in the Bank. That no showcause notice was issued to him. His services were terminated orally from 26-7-92 in violation of Section 25-F of I.D. Act. on such ground, he is praying for his reinstatement with consequential benefits.

3. Written submissions are also submitted by workman at Page 2/1 to 2/2 contending that he was appointed in Bank as Driver. He was driving Car No. MHL-7028 of Dy. Regional Manager. He was paid Rs. 950 per month and daily allowance Rs. 20. The bills were paid by the Bank. He was maintaining logbook. That his termination is in violation of Section 25-F of I.D. Act.

4. Management of IInd Party filed Written Statement denying claim of the workman. IInd party contented that the workman was not employee of the Bank. He was appointed as personal driver by Dy. Regional Manager. The Dy. Regional Manager was entitled to allowance for personal driver. There is no relationship of employer and employee between parties. Therefore the dispute is not tenable. Ist Party workman is not entitled to reinstatement claimed by him.

5. Workman filed rejoinder. He has reiterated his contentions in Statement of Claim about his appointment, payment of salary, termination of service in violation of Section 25-F of I.D. Act

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the claim of Shri Sanjay Waman Kale that he was an employee of Dena Bank is proper?	In Affirmative
(ii) Whether action of the management of Dena Bank in terminating services of Shri Sanjay Waman Kale is justified?	In Negative.
(iii) If so, to what relief the workman is entitled to?	As per final order.

REASONS

7. Workman claiming to be driver working in the Bank raised present dispute while working as a Driver of Car of Dy. Regional Manager. His services were illegally terminated. The claim of the workman was denied. The reference was decided by my learned predecessor vide Award dated 26-11-99. Management of IInd Party was directed to pay Rs. 50,000 as exgratia to the workman and ensure within 3 months that workman is absorbed in the services of the Bank in or around Nagpur on a salary of not less than Rs. 4000 per month. Said award was challenged by management of IInd Party filing Writ Petition No. 6299 of 2000. *Vide* judgment dated 28-3-06, award passed by my this Tribunal was set-aside observing that since there is no discussion in the order of the CGIT that the facts of the decision of Gularn Destgeer (*supra*) to tally with the present factual scenario, the award of CGIT cannot be allowed to remain stand and the same is hereby quashed. Case is sent back to the CGIT to re-decide the matter in the light of the observations made.

8. After remand of the matter, the parties did not adduce any evidence. Both parties rely on the evidence already adduced. At the time of argument, learned counsel for 1st Party Shri H.R. Bharti submits that workman was working as Driver of Dy. Regional Manager. The case is fully covered by the ratio held in Case of Gulam Destgeer, 1st Party workman was not working as Personal Driver of the Officer. Workman died in 2004. That compensation amount Rs. 50,000 be enhanced. Learned counsel for IInd party Shri Shashi submits that workman died, his LRs are brought on record. As per the terms of reference, two questions are required to be decided whether the workman was employee of the Bank and to what relief the workman is entitled?

9. In his affidavit of evidence, workman has stated that he was appointed as Bank employee Driver and not as a personal driver of Dy. Regional Manager. That after termination of his service, Mr. Tambut was appointed as per Waiting list of 1985, Tambut had given interview for permanent post. In his cross-examination, above evidence remained unchallenged. Rather workman in his cross-examination says that in Written Statement filed by Bank, it is not stated that Tambut was appointed from Waiting List of 1985. That he was given appointment by Dy. Regional Manager. Appointment letter in writing was not given to him. He was not interviewed by any Committee. That he was driving the car given to Shri Valimbe by the Bank. He was not driving any other car. Thus from his evidence, it is clear that the car driven by him was provided by Bank. That he had passed receipt for the wages paid Exhibit M-12 to M-18. In his further cross-examination, he says that he had submitted application for Driver. That Mr. Pattalwar

was giving him slips and then amount was paid by the Bank.

10. The evidence of management's witness Shri Prakash Pattalwar is that workman was appointed by him as Personal Driver. Such driver engaged by Officer does not work under supervision and control of the Bank. That the workman was engaged by Shri G.S. Vilimbe, the then Dy. Regional Manager (Development) stationed at Nagpur. In his cross-examination, he says that letter of appointment was not given to the workman. Bank was not concerned with his appointment. Bank was not paying salary. That he was receiving amount from Bank. He admits that terminating the services of workman, he has employed Mr. Tambut as his personal driver. That salary paid to Driver was reimbursed by Bank. Though copy of logbook is produced, care is taken to prove the same.

11. Copy of rules Exhibit M-1 produced by the Bank. Dy. General Manager is entitled for Bank's Car. The rules at Page 89 provides the Bank will make available driver to all Top Executives, Asstt. General Manager, Regional Managers and at centres where the facility of car is made available. These officers would, however be permitted to employ in place of Bank's driver their personal driver should they so desire. Reimbursement of salary, subject to submission of actual payment receipt from the drivers/cleaners inclusive of cleaning charges for personal expenses to the Executives provided with Bank's car are as Rs. 1200 for metropolitan towns and Rs. 1100 for other places.

12. The evidence discussed clearly shows that car was provided by the Bank. Exhibit M-2 shows that amount paid to the workman by the Chief Manager of the Bank. Document Exhibit M-3 to M-11 shows that amount paid to workman was from Saving Bank Account of Shri G.L. Vakimbe and Shri Prakash Pattalwar. The vouchers are bearing name of Dena Bank, Itwari branch, Nagpur as personal driver. If car is provided by the Bank, car without driver would be of no use. The payment of allowance appears to be a device to deny the benefits of appointment as Driver. In case of—

"Employees in relation to Punjab National Bank *versus* Ghulam Dastagir. Their Lordship observed that there is nothing on record to indicate that the control and direction of the driver vested in the Bank. After all the evidence is clearly to the contrary. In the absence of material to make out that the driver was employed by the Bank, was under its direction and control was paid his salary by the Bank and otherwise was included in the army of employees in the establishment of the Bank, it cannot be assumed that the crucial point has been proved. There is no camouflage or circumvention of any statute. There is no nexus between the driver and the Bank. Hence the Tribunal's award has to be set aside."

The facts of present case are not comparable. The evidence is clear that the car driven by workman was provided by the Bank. The evidence remained unchallenged. That after termination of services of workman, Shri Tambut was appointed in his place from Waiting List of the year 1985. It shows that the Bank was concerned with appointment and termination of the services of the workman. It appears to be reason that after termination of services of workman, Mr. Tambut from Waiting List of 1985 was appointed. The payment vouchers Exhibit M-2 to M-11 produced on record bears the name of the Bank. The receipts Exhibit M-12 to M-18 are given by the workman. The rules of the Bank provides for providing car to top officers and also providing Driver or appointment of personal driver and payment of the allowances. The rules for providing payment of allowances and appointment of personal drivers appears motivated to deny statutory benefits. When car is owned by the Bank, there appears no reason for appointing a personal driver by the officers. The object behind payment of allowance for personal drivers appears only to deny statutory benefits. Even in—

"Case of Ghulam Dastagir, their Lordship observed in para-6 of the judgment that our whole approach may not turn purely on technicalities of evidence but on consideration of social justice. He readily responded to the spirit in which we put this aspect to him. On behalf of the management, Dr. Anand Prakash gave us an assurance that this Driver, though not an employee of the Bank, would be paid *ex gratia* a sum of Rs. 7500 (less a sum of Rs. 897.24 which has already been paid on an earlier occasion). The appellant Bank will further see that within three months from today, the respondent driver is absorbed in the personal service of one or other of the higher officers of the Bank in or around Calcutta on a salary of at less than Rs. 250."

Next reliance is placed on ratio held by Hon'ble Calcutta High Court, Standard Chartered Bank and Asstt. Labour Commissioner Central and others reported in 1994-2-LLJ-792. His Lordship held at no material point of time, the petitioner Bank had appointed the driver and there cannot be any conciliation proceedings. Admittedly there was neither any letter of appointment nor termination order. It appears from the records that the workman had obtained employment from the employee of the Bank in this personal capacity.

The facts of the present case are not comparable as car driven by workman was owned by the Bank. After termination of services of workman, Mr. Tambut was appointed in his place. Vouchers Exhibit M-2 to M-11 were bearing the name of Dena Bank. All those facts shows that the deceased was working as Driver of the Bank and not personal driver of Dy. Regional Manager. For above reasons, I record my finding on Point No. 1 in Affirmative and Point No. 2 in Negative.

13. **Point No. 3.**— In view of my finding in Point No.1, 2 that the termination of services of deceased workman is in violation of Section 25-F of I.D. Act, the question arises to what relief, the workman is entitled? Workman had died, reinstatement is not possible. Considering short length of his service, compensation Rs. 50,000 would be appropriate. Accordingly I hold and record my finding on Point No. 3.

14. In the result, award is passed as under:—

- (1) Ist party Shri Sanjay Waman Kale was employee of the IInd party Bank. Termination of his service is in violation of Section 25-F of I.D. Act as such illegal.
- (2) IInd party is directed to pay compensation Rs. 50,000/-.

Amount be paid with 9% interest from the date of earlier award i.e. from 26-11-99.

R. B. PATLE, Presiding Officer

नई दिल्ली, 14 फरवरी, 2014

का०आ० 847.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नागपुर के पंचाट (18/2001) प्रकाशित करती है जो केन्द्रीय सरकार को 14.02.2014 को प्राप्त हुआ था।

[सं एल-12011/277/2000-आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 847.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 18/2001) of the Cent. Govt. Indus. tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of Bank of India and their workman, received by the Central Government on 14/02/2014.

[No. L-12011/277/2000-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

**BEFORE SHRI J.P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case NO. CGIT/NGP/18/2001

Date: 15.01.2014

Party No. 1 : The Zonal Manager, Bank of India,
Zonal Office, S.V. Patel Road, P.B. No.4,
Nagpur- 440001

Versus

Party No.2 : The Regional Secretary,
Bank of India Workers Organization,
C/O BMS, 542, Congress Nagar,
Nagpur -440001

AWARD

(Dated: 15th January, 2014)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Bank of India and their workman, Shri Sanjay Laxman Bihade, for adjudication. As per letter No.L-12011/277/2000-IR (B-II) dated 22.03.2001, with the following schedule:—

"Whether the action of the management of the Zonal Manager, Bank of India, Zonal Office, Nagpur in terminating the services of Shri Sanjay Laxman Bihade w.e.f. 03.06.1999 is legal, proper and justified? If not, what relief the said workman is entitled to and from what date?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the union, "Bank of India Workers Organization" ("the union" in short) filed the statement of claim on behalf of the workman, Shri Sanjay Laxman Bihade, ("the workman" in short), and the management of Bank of India ("Party No. 1" in short) filed their written statement.

The case of the workman as presented by the union in the statement of claim is that the party No 1 is a Banking industry and party No. 1 uses to engage daily wagers/badli workers who are ordinarily from the Employment Exchange and the provisions of Sastry Award, Desai Award and Bipartite settlements signed under the provisions of the Act govern the service conditions of the employees of party No. 1 and there are permanent vacancies of Sub staff in almost every branch of party No 1 and the said facts can be verified from the only fact that under the various nomenclatures, i.e. Badli, temporary and daily wagers, workers are engaged on daily wages every day in every branch of the party No. 1, but unfortunately, the said employees are not given the status of permanent employee, even though, the nature of work extracted from them continuously for years together is that of permanent employees. It is further pleaded by the union on behalf of the workman that the workman was engaged by the party No. 1, at Gandhi Baug branch w.e.f. 05-04-1991 and his name was registered in Nagpur Employment Exchange and he was engaged by party No.1 after due interview, but he was not given any appointment order and he worked at Gandhi Baug branch. Nagpur Main branch and Extension

counter and the workman performed the duties of a permanent employee and worked in cash department, cash lodgments, in-ward and out-ward clearing in RCC and all other works connected with the permanent class 4th employee and he was in continuous service of party No. 1 for a period of more than nine years and party No. 1 gave artificial and illegal breaks and by virtue of his having put in more than 240 days in every break in service, his termination from services without compliance of the provisions of Section 25 F of the Act is illegal and by virtue of the workman putting in six months of continuous service, he was deemed to have been confirmed in the service of the Bank as per the provisions of the Bi-partite settlement and therefore, he was not only entitled for yearly increments, but also, entitled for all the benefits of a permanent employee of the Bank and the action of the party No. 1 is illegal and unfair labour practice.

Prayer has been made by the union to regularize the workman as a permanent Sub staff in the Bank from the date of his first appointment with back wages and all benefits as per the provisions of Bipartite settlement including bonus.

3. The Party No. 1 in the Written Statement has pleaded inter-alia that during the absence of the regular subordinate staff (sepoy/sweeper) on leave or absence due to any other reason, to meet the exigencies of administration, such as cleaning of the branch premises and to attend basic necessity, locally available person is engaged on casual basis as coolli by the Manager and casual workers are also engaged for attending work of seasonal nature, such as bringing of water during summer season or moving of cupboards and the coolli charges are reimbursed to the Manager, who in turn makes the payment to the coolli and these casual workers are not ordinarily drawn from the Employment Exchange as alleged by the union and Employment Exchanges Sponsor Candidates against permanent vacancies and they have to be intimated after candidates are appointed and there is no practice for calling candidates from Employment Exchange for the purpose of casual engagement and it is also not feasible to engage the candidates on casual basis from the list sponsored by the Employment Exchange specially centers/branches, where there is only one sub-staff and such temporary engagement on casual basis is in no way connected to the regular recruitment process and this cannot be taken as a plea for backdoor entry by submitting illegal claim. It is further pleaded by Party No. 1 that it is not true to say that there are permanent vacancies of sub-staff in every branch of the Bank and whenever, a permanent vacancy arises in a branch, it is filled up at the earliest opportunity by following the laid down procedure and the provisions of Sastry Award, Desai Award and Bipartite Settlements are not applicable to the workman, as he was never been a permanent employee of the Bank and the workman was not engaged at Gandhibag Branch from

5th April, 1991, after his name was sponsored by the Employment Exchange and conducting of interview for appointment by it and the workman was engaged only for jobs of casual and seasonal nature, such as bringing of water during summer season and he was not engaged continuously against a permanent vacancy and he never performed the duties of a permanent employee of the Bank and he never signed any muster roll at Gandhibag or University Extension Counter and the statement of the workman that he worked in different departments on different period is striking at the root of his own claim for working against permanent vacancy and it being a Government of India undertaking has no intention to avoid any obligation or liability as alleged by the workman and the wages paid to the workman cannot be shown in the salary sheet due to the simple reason that he was not an employee of the Bank and the Manager is empowered to engage casual workers during the absence of permanent sub-staff and the reimbursement is given to the Manager, who in turn makes the payment to the casual labourer and the vouchers are signed by the Manager as per the Bank's procedure and it was pointed out by the branch at that time that the workman had tampered with some of the vouchers of the branch and surreptitiously signed on the back of some of the vouchers with mala fide intention to make his claim at a later stage, showing the lack of integrity and trustworthiness on his part and the claim of the workman of working for 1848 days from 1991 is imaginary and not supported by any evidence and he has not produced any documentary proof in support of his claim and though the workman has claimed that he was engaged for different jobs in different branches, he has not given the specific period of his work and the workman should have mentioned about the documents available in the Bank in support of his claim giving essential details, such as nature of the document, date, period, branch, nature of the job etc. and the management cannot be asked to bring document not even in existence and the branches do not maintain permanent records for casual engagement, as they are not permanent employees of the Bank and it had never given any artificial and illegal breaks and the workman had not put in 240 days of continuous service and therefore, Section 25-F of the Act is not applicable to his case and the workman is not entitled for confirmation and yearly increment as applicable to confirmed employee and it is not involved in any illegal or unfair labour practice and the workman is trying to fabricate a case out of nothing for securing back door entry and illegal appointment and as the workman was engaged as casual worker and was disengaged after completion of the specific work, it cannot be said that he was terminated from services and he has no right against the permanent post and he is not entitled to any relief.

4. Besides placing reliance on documentary evidence, both the parties have led oral evidence in support of their respective claim.

Seven witnesses, namely, Shri Vinayak Joshi, Shri Shirish A. Damle, Shri Sanjay Laxman Bihade, Shri Arvind Madhukar Tamhaney, Shri Satyawar Atkar, Shri Rajendra M. Dahikar and Shri Keshab Mahadeo Pahade have been examined by the union in support of the claim of the workman.

Only one witness, namely, Shri Ravindra S. Sirsakar has been examined on behalf of the Party No 1.

5. At the time of argument, it was submitted by the union representative that the workman was engaged as a peon on 05.04.1991 at Gandhibag Branch and the appointment was made by the Branch Manager with approval of the Zonal Manager and the name of the workman was sponsored by Employment Exchange and he worked as a full time peon, although he was paid on daily wages basis and the workman worked continuously for 9 years, from 1991 to June, 1999 and despite the existence of permanent vacancy, he was not regularized by Party No. 1 and the workman was terminated without any order or reason in 1999 and there was violation of the mandate of Sections 25-B, 25-G and 25-H of the Act and to prove the case of the workman, seven witnesses including the workman were examined and documents relating to the existence of permanent vacancy and engagement of the workman were filed by the union and the Party No. 1 only examined one witness and it is clear from the materials on record that though the workman worked for more than 240 days on many occasions in one calendar and he had worked for more than 1848 days, the Party No. 1 instead of regularizing his services, terminated him without following the mandatory provisions of law and the termination of the workman is illegal and the workman is entitled for reinstatement in service with continuity and full back wages and regularization w.e.f. April, 1992 i.e. the date on which, he completed on year of continuous service.

6. Per contra, it was submitted by the management representative that the workman was engaged as a casual worker on daily wages and he was disengaged after the specific work was over and the workman was paid wages by the Branch Manager, as he was engaged by the Branch Manager as and when required and though, it is pleaded by the union that the workman was sponsored by the Employment Exchange and he was interviewed before his engagement, no document has been filed in support of such claim and no document has also been filed to prove that the workman in fact had worked for 1848 days in total as alleged by him or that he had completed 240 days of work in any calendar year and in absence of the documentary evidence in support of such claim, the oral evidence is not sufficient to prove the same and the burden to prove 240 days of service lies on the workman and in order to prove the same, both oral and documentary evidence is necessary and affidavits which are self serving statements are not sufficient to prove the same and the affidavits of witnesses, Vinayak Joshi, Arvind Tamhaney,

Shirish A. Damle and Rajendra M. Dahikar are general in nature and the evidence of the witnesses examined by the union does not prove the days for which, the workman had actually worked and as the workman did not work for 240 days in any calendar year, the provisions of Section 25-F of the act are not applicable and the workman is not entitled to any relief.

In support of the contentions, reliance was placed by the management representative on the decisions reported in (2006) 1 SCC - 106 (R.M. Yellatti Vs Asstt. Executive Engineer), (2006) 9 SCC-697 (Krisha Bhagyajal Nigam Ltd. Vs. Mohd. Rafi), (2006) 6 SCC 221 (Reserve Bank of India Vs Gopinath Sharma) (2006) 9 SCC - 132 (Surendra Nagar Distt Panchayat Vs Gangaben) and judgement of the Hon'ble Bombay High Court, Nagpur Bench in Writ Petition NO. 1072/2002 (Bank of India Vs. The Presiding Officer).

7. Before delving into the merit of the case, I think it proper to mention about the principles enunciated by the Hon'ble Apex Court in respect of Sections 25-F and 25-B of the Act, as in this case, it is claimed that before termination of the service of the workman, the provisions of Section 25-F were not complied with.

In the decision reported in (2006) 1 SCC- 106 (Supra), the Hon'ble Apex Court have held that:—

"Labour Law-Industrial Disputes Act, 1947-Ss, 25F, 25B, 11 and 10-Recruitment of 240 days continuous service-Onus to prove Evidence to be led-Applicability of Evidence Act, 1872 -Held, burden of proof lies on workman-It is for workman to adduce cogent evidence, both oral and documentary-Mere affidavits or self serving statements made by workman will not suffice-Evidence Act not applicable to proceedings under S10, ID Act."

8. In the decision reported in (2006) 9 SCC-697 (Supra), the Hon'ble Apex Court have held that:—

"Labour Law-Industrial Disputes Act, 1947-Ss 25B, 25F-Whether workman worked or continuous period of 20 days in a year-Held, burden of proof lies on the workman-So as to entitle him to benefits of S.25-F- In this case, respondent workman having failed to discharge the initial burden, award of Labour Court holding termination of his service as illegal on ground of non compliance with Section 25-F and directing his reinstatement in service was erroneous."

9. In the decisions reported in (2006) 9 SCC -132 (Supra) and in Writ Petition No. 1072/2002 (Supra), the Hon'ble Apex Court and Hon'ble Bombay High Court, Nagpur Bench have taken the similar view, as mentioned above.

So, keeping in view, the principles enunciated by the Hon'ble Courts as mentioned above, now, the present case in hand is to be considered.

10. It is to be mentioned here that though as per the schedule of reference, the legality and the propriety of the termination of the workman from services w.e.f. 03.06.1999 is required to be adjudicated, in the entire statement of claim, not a single word has been mentioned in regard to the termination of the workman. It is also not pleaded that the workman was terminated from services w.e.f. 03.06.1999, though it was pleaded that the party No. 1 was giving artificial illegal breaks and by virtue of having put in more than 240 days of work, every break amounts to illegal termination, it being contrary to the provisions of Section 25-F of the Act. However the date or dates of such alleged artificial breaks have not been mentioned in the statement of claim. No prayer has also been made in the statement of claim for the reinstatement of the workman in service. Rather prayer has been made for the regularisation of the workman as permanent Sub-staff from the date of his first appointment and payment of wages, bonus and other benefits as per the provisions of the Bi-partite settlement. So the statement of claim as filed by the union on behalf of the workman is not in accordance with the terms of reference.

11. So far the oral evidence adduced on behalf of the workman is concerned, the workman in his evidence on affidavit has reiterated the facts as mentioned in the statement of claim. He has further stated that he was interviewed by Mr. Dhole & Mr. R.N Nare, the officers of Zonal office of the Bank along with some other candidates, who came from Employment Exchange and after due medical examination, he was selected by the Bank and his name was sent by the Employment Exchange, Nagpur as per the demand of the Bank. It is to mentioned here that there is no such pleadings in the statement of claim. In absence of such pleadings in the statement of claim, such statements of the workman cannot be taken into consideration.

The workman in his evidence has stated that he was terminated by the Bank in June, 1999 without any notice or notice pay.

In his cross-examination, the workman has admitted that he has not filed any document to show that his name was sponsored by the Employment Exchange or that he had received any call letter from the Bank to appear in the interview. The workman contradicting the plea taken in the statement of claim that he was not given any appointment order, has tried to improve his statement saying that an appointment letter was issued to him, but he has not filed such appointment letter. The workman in his cross-examination has further admitted that he does not have any record or document to show that he worked for 1848 days with the Bank and Bank was making payment of his wages on vouchers and Annexure 1 filed along with his

affidavit has not been authenticated by any officer of the Bank and though he has claimed that he joined the Bank on 05.04.1991, in Annexure 1, he has mentioned that he worked for 24 days in January, 1991, 29 days in February, 1991 and 15 days in March, 1991.

On perusal of the evidence of the workman, it is found that his claim that he worked continuously from 05.04.1991 for nine years till 1999 is not at all true. In the statement of claim and so also in his evidence, the workman has stated that he worked at Gandhibag Branch, Ramdeo Baba Extn. Counter Nagpur, Main Branch and University Extn. Counter. It is never the case of the workman that he was transferred from one branch in another branch. Moreover, Annexure 1 filed by the workman himself alongwith his evidence on affidavit also clearly shows that the workman did not work continuously as claimed by him. The workman has not mentioned the periods of his engagement in different branches of Party No. 1.

Annexure 1 has been filed by the workman to show that he worked for 1848 days. Annexure 1 had no evidentially value as the same has been prepared by the workman himself and a self serving statement and the same has not been authenticated by the Bank. Moreover, on bare perusal of the same, it is found that the said statement is quite wrong on the face of it. Though, the workman has claimed that his initial appointment was on 05.04.1991, in Annexure 1, he has shown to have work in January, February and March, 1991, Likewise, in Annexure, the workman has mentioned that he worked 36 days in May, 1992, 43 days in July, 1992, 32 days in May, 1994, 43 days in June, 1992, 36 days in May, 1994, 43 days in June, 1994 and 31 days in June, 1995, which is quite impossible, as the days are more than the total days of the respective months.

The workman has not stated the periods (in the preceding 12 calendar months of the alleged date of termination or in any 12 calendar months) of his doing 240 days of work.

12. The evidence of witnesses, Shri Vinayak U. Joshi, Shri Shirish A. Damle, Shri Arvind M. Tamhaney and Shri Rajendra M. Dahikar is general in nature. Most of their evidence is in regard to their claim that there are number of permanent vacancy in the sub-Staff cadre in the Bank and the Bank instead of taking steps to Till up the vacancy is adopting illegal practice of engaging temporary employees in the name casual, Badli and daily wage and taking the work from them at permanent employee. It is well settled by the principles enunciated by the Hon'ble Apex Court in a string of decisions that the Tribunal cannot travel outside the terms of reference and the jurisdiction of the Tribunal in industrial disputes is limited to the points specifically referred for its adjudication and to matters incidental there to.

Though the reference has been made by the Central Government for adjudication of the legality or otherwise of

the termination of the workman, Shri Sanjay Laxman Bihade the union, in the guise of raising the dispute on behalf of the workman has tried to challenge the policy adopted by the party No. 1 of engaging persons on temporary basis, in spite of having number of permanent vacancies in the cadre of sub-staff at different branches of the Bank. In view of the settled principles that the Tribunal cannot travel beyond the terms of reference as already mentioned above and in view of the fact that such specific terms of reference has not been made by the Government, such claim cannot be adjudicated.

In his evidence, Shri Vinayak U. Joshi has not mentioned anything in particular in regard to the engagement of the workman by the Bank. In a general way, he has mentioned that each and every workman covered by this reference has worked with the Bank of India for more than 240 days in a consecutive 12 months period, even though, this is a reference in regard to the sole workman.

In his cross-examination, Shri Joshi has stated that though this reference is in regard to the termination of the services of the workman, he has filed the statement of claim for regularization of the workman and he cannot say if any appointment letter was given by the Bank to the workman or not. So, the evidence of Shri Joshi is of no help to the case of the workman.

Likewise, Shri Damle in his evidence has stated that workman covered by the terms of the preset reference are such Badlee employees/daily wagers/temporary/casual employees who have been continued for years. So, there is nothing in the evidence of Shri Damle in regard to the issue involved in this reference.

In his evidence, witness, Shri Arvind M. Tamhaney has only stated that in the instant case, concerned employee was given illegal breaks in the service by the management on many occasions without any reason and with malafide intention. The said statement is of no help to the case of the workman.

In the evidence of witness, Shri Rajendra M. Dahikar, there is nothing particular which is of any help to the case of the workman.

The witness, Satyawan Atkar has stated that the workman worked more than 240 days in every year and he worked for more than 1800 days from 1991 to 1999. In his cross-examination, this witness has stated that no document has been filed to show that the name of the workman was sponsored by the Employment Exchange and that the workman was appointed as a sub-staff.

14. The most important witness in this case is Shri Keshao Mahadeo Pahade, as because, through this witness, the union has produced the documentary evidence

regarding the engagement of the workman in the Bank, i.e. copies of the vouchers of payment of wages to the workman. This witness in his evidence has stated that in the year 1991, the workman joined the Bank at Gandhibagh Branch after interview by the officers of the Zonal office along with some other candidates, who came from Employment Exchange and the workman worked at Ramdeo Baba Extn. Counter, Nagpur Main Branch, University Extn. Counter and he worked for more than 240 days in every year and as per his knowledge, the workman worked for more than 1700 days in the Bank, till his retirement on 28-04.1999 and the workman was working even after 1998 and the workman used to get payment on vouchers and the vouchers were shown as reimbursement to Manager and he is producing Xerox Copies of 53 vouchers, which were Xeroxed by the workman from 30th August, 1991 to 24th March, 1998 and which could not be produced by the workman earlier due to pressure, as Annexures 1 to 53.

Demolishing his entire evidence, in the cross-examination, this witness has stated that neither he has seen any document nor any document is produced in support of his claim that the name of the workman was called for from the Employment Exchange and the workman was working on daily wages and the workman was being engaged by the Bank, when a permanent class-IV employee was remaining absent on leave and no document has been filed on record of this case to show that the workman had worked for 240 days in any calendar year and the Branch Manager of the Bank was engaging the workman as and when required on daily wages and no appointment letter was issued by the Bank to the workman and he does not have any idea about the vouchers filed along with his affidavit as Annexure 1 to 53.

15. The witness for the Party No. 1 in his examination-in-chief on affidavit has stated that he was working as the Administrative Officer in Gandhibagh Branch from 1992 to 1996 and while working as such, he had prepared and approved the vouchers for reimbursement of the payment made to the Branch Manager to casual workers and the Manager was entitled to appoint casual worker in the event of exigency of work or temporary increase in the work and there was no procedure of obtaining the signature of the casual employee on the vouchers, as payment was being made in the Branch Manager as reimbursement and the workman was engaged by the Branch Manager on casual basis as and when required. Though this witness has been cross-examined testimony. It is noteworthy to mention that in the cross-examination of this witness, a suggestion was given to him that at the time of the initial date of engagement of the workman as a casual daily wager, he was not working in Gandhibagh Branch and the name was admitted by him.

16. It is clear from the evidence on record, the pleadings of the parties and specifically the admission of the workman in his examination in chief that he used to get

Rs. 50/- per day and nearly Rs. 1,600/- per month and so also the payment vouchers, Annexures 1 to 53 produced by witness, Keshao M. Pahade that the engagement of the workman was by the Manager of the concerned Branches as casual worker on daily wages as and when required basis and he was not appointed by the Party No. 1 and he did not work against any permanent vacancy.

It is settled beyond doubt that to get the benefits of Section 25-F of the Act, it is for the workman to prove that infact he had worked for 240 days in the preceding 12 calendar months of the alleged date of termination. So, now, it is to be considered as to whether the workman has been able to discharge the initial burden of proving of working for 240 days in a given year.

As already mentioned, in the statement of claim, there is no pleading about termination of the workman on 03.06.1999 as mentioned in the schedule of reference. There is also no specific pleading in the statement of claim that the workman infact had worked for 240 days in the 12 calendar months preceding the date of his termination or even in which calendar year, he had worked at least for 240 days, though there is pleading that on many occasions he had put in more than 240 days of work.

As already discussed above, the oral evidence of the witnesses examined by the union on behalf of the workman including the workman is of no help to find out that the workman had infact worked for 240 days either in the preceding 12 calendar months of 03.06.1999 or in any calendar year between 1991 to 1999 in Gandhibagh Branch or in any other branch, where the workman has claimed to have been worked individually or combinedly.

17. So far the documentary evidence is concerned, i.e. the vouchers (Annexures 1 to 53 filed by witness, Shri Pahade along with his affidavit) it is found that vouchers, Annexure 43 to 53 relate to the period of the workman as casual daily wagger from July, 1997 to June, 1998. On verification of the said vouchers, it is found that the workman had worked only for 64 days during the period from July, 1997 to June, 1998 i.e. the preceding 12 calendar months of 03.06.1999. On verification of the rest vouchers, Annexures 1 to 42, it is found that the workman did not work for 240 days in any calendar year.

From the evidence on record, it is found that the workman has failed to discharge the initial burden of proving of working at least for 240 days in a given year. As the workman has not been able to prove that he worked for 240 days in the preceding 12 calendar months of the date of his termination i.e. 03.06.1999 or even in any calendar year in between 1991 to 1999, it is held that he is not entitled to the protection of Section 25F of the Act. Hence, it is ordered:—

ORDER

The action of the management of the Zonal Manager, Bank of India, Zonal Office, Nagpur in terminating the services of Shri Sanjay Laxman Bihade w.e.f. 03.06.1999 is legal, proper and justified. The workman is not entitled to any relief.

J.P. CHAND, Presiding Officer

नई दिल्ली, 14 फरवरी, 2014

कांआ 848.—औद्योगिक अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (90/2011) प्रकाशित करती है जो केन्द्रीय सरकार को 14.02.2014 को प्राप्त हुआ था।

[सं एल-12011/22/2011-आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 848.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 90/2011) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Indian Bank and their workmen, received by the Central Government on 14/02/2014.

[No. L-12011/22/2011 - IR(B-II)]
RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 21st January, 2014

Present: K.P. PRASANNA KUMARI,
Presiding Officer

Industrial Dispute No. 90/2011

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act. 1947(14 of 1947), between the Management of Indian Bank and their workman).

BETWEEN

The General Secretary
Indian Bank Employees' Union
No. 6, Moore Street. Mannady Corner
Chennai-600001 ... 1st Party/Petitioner Union

AND

The Asstt. General Manager (HRM)
 Indian Bank., 66, Rajali Salai,
 Chennai-600001 :2nd Party/Respondent

Appearance

For the 1st Party/ : Sri J. Thomas Jeyaprabakaran,
 Petitioner Union Authorized Representative

For the 2nd Party/ : M/s. T.S. Gopalan & Co.,
 Respondent Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12011/22/2011-IR (B-II) dated 04.11.2011 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the management of Indian Bank in recovering an amount of Rs. 2,000 each from S/Sri T. Kettimuthu, P. Ramesh, S. Muruhasan and Smt. N.S. Kamakshi to make good the alleged shortage from their respective salaries is just and legal? What relief the concerned workmen are entitled?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 90/2011 and issued notice to both sides. The petitioner has appeared through its Authorized Representative and the Respondent through its counsel and has filed claim and counter statement respectively. The petitioner has filed a rejoinder also after the Counter Statement was filed.

3. The averments in the Claim Statement in brief are these:

The four employees named in the schedule of reference were working in Sankari Branch of the Respondent as Shroff. Every Cashier, on completion of work, at the close of the day has to make out sections of notes consisting of 100 pieces each and denomination wise. The Shroff preparing the sections is solely responsible for both quantity and quality of the lower denomination notes. In the case of higher denomination, the Shroff and the Officer who checked the sections are jointly responsible for the quantity of notes. However, for the quality the Shroff alone is responsible. Starting from January 2007 the Erode Chest has made various claims on Sankari Branch for a total sum of Rs. 50,850 alleging defective notes in the sections remitted, all belonging to Rs. 500 denomination. The certificates on these sections have been witnessed by only one person against the stipulated two i.e. Shroff and the Officer. The Sankari Branch administration had sought explanation of the employees referred to in the schedule as to how they have been receiving large number of fake or defective notes. The employees have submitted their

explanation. Since fake notes are now fabricated in a very clever manner, it has become impossible to identify them by ultra violet lamp examination. Verification of the entire currency piece by piece involves considerable time. So the employees had to undertake verification by machines rather than manually. In spite of explanation by the employees, the Management had served memo on the employees asking them to remit amounts to make good the alleged loss. The action of the Respondent in recovering the amount from the employees is illegal. The Respondent shall be directed to release the recovered amount along with interest to the employees.

4. The Respondent has filed Counter Statement contending as follows:

Every branch of the Respondent Bank will have to remit excess cash over and above the prescribed limit into the Reserve Bank by way of remittance to the notified Currency Chest. The Staff of the Currency Chest will verify the notes both for the quality and quantity and the Officer-in-Charge will verify the quantity. In case there is shortage in quantity or the notes are found forged the Currency Chest will have to lodge a claim with the remitting branch to make good the shortfall or replace the defective notes as the case may be. On the basis of the particulars of the Clerical Staff whose signatures are found in the slips attached to the fake notes or defective notes, the value will be recovered from the concerned staff who has signed the slip for having verified notes for quality. The concerned staff is not permitted to make any excuses or explanations. The four Clerical Staff mentioned in the order of reference were working in the Sankari Branch between 2005 and 2006. The Currency Chest at Erode Main Branch made a demand for Rs. 1,00,380 to be recovered from 11 members of the Staff including the four Clerical Staff mentioned in the order of reference. In the case of these four Staffs dispute was raised challenging recovery of the amount before the entire amount could be recovered. The recovery is sought from these four Staffs, not for shortage but for the presence of fake currency notes in the sections which were verified by them. If the plea of the petitioner is accepted there would be no one to take responsibility for the presence of fake notes tendered for remittance. The petitioner is not entitled to any relief.

5. The petitioner has filed a rejoinder subsequent to the filing of the Counter Statement, denying the statements therein and also reiterating the case in the Claim Statement.

6. The evidence in the case consists of documents marked as Exts. W1 to Exs. W26 and Ext. M1 to Exs. M17. No oral evidence was tendered on either side.

7. The points for consideration are:

- (i) Whether the action of the Respondent in recovering amount from salaries of the four

employees to make good the alleged shortage is just and legal?

- (ii) What is the relief to which the petitioner is entitled?

The Points

8. Kettimuthu, Ramesh, Muruhasan and Kamakshi had been working as Shroff in Sankari Branch of the Respondent Bank during 2005 and 2006. Any branch of the Respondent which is having excess cash will have to remit it to the Reserve Bank through the Currency Chest. The Sankari Branch had to make such remittances at the Currency Chest of the Erode Branch. It seems the Currency Chest had demanded Rs. 1.00.380 from the 11 Staff of the Sankari Branch on the basis either that there was shortage or that they were fake notes in the cash remitted by them in the Chest. Except the employees referred to in the order of reference, the other employees seem to have remitted the amount claimed from them or recovered from their salary. The four employees concerned have taken the stand that they are not responsible for the fake notes that were allegedly found in the sections that were verified by them. In the Claim Statement it is stated by the petitioner union who has taken up the case of the concerned employees that because of technological improvement anti social elements have started fabricating currency notes in a most ingenious manner and it has become impossible to detect them by exposing to the ultra violet lamp. It is further stated that such cleverly fabricated notes could be identified only by manual verification of the currency sections. According to the petitioner, manual verification of each note piece by piece involves considerable time and is impossible. It is stated that in view of this, the administration itself has instructed the Cashiers to do the verification by the machines instead of doing it manually. It is stated that the concerned Cashiers had carried out the instructions by the Administration and could not be held responsible for the fake notes that are detected in the bundles remitted in the Currency Chest.

9. There is no dispute on the fact that the fake notes were found in the bundles that were verified by the concerned employees. Apart from the argument that there is instruction by the Administration to undertake the verification by machines only, the argument advanced is that the counting of the cash from the chest was not done on the basis of the standing instructions.

10. Ex.W26 is the instruction given by the Respondent regarding detection and reporting of counterfeit notes. Ex.W4 is the revised procedure for preparation of currency notes in sections and bundles. In Clause-2 of this regarding preparation of sections for lower denomination it is stated that at the end of the day's transactions the concerned Shroff shall prepare sections of notes separately for each denomination containing 100 pieces each. It is

further stated that the Shroff should examine the notes to satisfy himself for the quality and count the number of pieces to ensure that each section contains 100 pieces. Notes of the value of Rs. 50 and above are considered as higher denomination notes while notes of the value of less than Rs 50 are considered lower denomination notes. Regarding higher denomination notes also at the end of the day's transaction it is for the Shroff to examine the notes to satisfy himself or herself for the quality and count the number of pieces to ensure that each section contains 100 pieces. The Shroff should then hand over the section to the Officer for verifying the correctness of the quantity of the notes. The Officer is to verify correctness of the quantity in the presence of a Shroff who prepared the section. Clause-6 of the procedure states that in the case of higher denomination notes the Shroff who prepared the section and the Officer who recounted are equally responsible for the quantity of notes, while in the case of lower denomination notes, the Shroff preparing the sections is solely responsible for both quantity and quality. It is further stated that for the quality of the higher denomination notes, the Shroff is solely responsible and hence for defective notes detected in high denomination sections, entire recovery should be made from the Shroff who prepared the section. The responsibility continues to rest with the Shroff and the Officer till the sections are broken and counted by another Shroff in the presence of an authorized official and found correct.

11. The Authorized Representative of the petitioner has been vehemently arguing that the responsibility for the defective notes could not be cast on the concerned workmen for the reason that it would be impossible for them to count each and every notes manually and verify the genuineness of the notes. The Authorized Representative has even referred to an article which states that fake notes are now rampant and because of the clever manner in which the notes are manipulated it has become impossible to find out if the notes are genuine or not. Even in the counter statement the respondent has stated that if this case of the petitioner is accepted no one could be held responsible for the quality of the notes.

12. Ex.W26 which is already referred specifies the manner in which counterfeit notes are to be detected and report regarding the same is to be given. Ex.W4 elaborates the procedure for verification of quality and quantity of the notes. As referred to earlier it is very clear from the procedure prescribed that the Shroff who is to verify the notes regarding the quality is having the responsibility for the quality of the notes verified and counted by him. Though regarding notes of higher denomination, equal responsibility is placed on the Shroff who is counting and the Officer who is verifying, regarding quality of the notes, the Shroff who is verifying the notes is solely responsible whether the notes are of lower denomination or of higher denomination. When the circular places the responsibility

for the quality of the notes on the Shroff in such a specific manner, the concerned Shroff who did the verification could not shirk away from his responsibility for the quality of the notes verified by him. The Authorized Representative has stated that the Administering Authority has given instruction to the Staff to check the quality using machines only in view of the heavy load of work upon them. However, the petitioner has not produced any document showing such instruction. So it is very much clear that the Shroff or the Clerk or the Cashier who did the verification of the notes is solely responsible for the quality of the notes counted by him.

13. The responsibility put on the Bank workers who are of the cadre of Clerks regarding quality of the notes is very heavy. The circular marked as Ex.W4 specifically states that if any notes are found defective or fake, he is to make good the loss. The concerned branch is to take steps to recover the amount from the person who has checked the quality of the note. Thus it is apparent that the Shroff or the Cashier who is checking the quality of the notes is working in a very tense atmosphere. He will always be apprehending recovery from his pay in case of defection of defective notes in the sections or bundles prepared by him after checking for quality. When such heavy responsibility is cast on the Shroff, there should be sufficient protection for them from any malpractice also. It is for such protection it is prescribed that the bundle should be tied in such a manner and the signature of the counting Shroff and that of the Supervising Officer also should be there on the section. The circular marked as Ex.W4 specifies the manner in which cash remittance from branches to Currency Chest are to be made. Para-7.1 states that sections and bundles prepared as per the procedure detailed in Para-2, 3 & 4 should alone be remitted by branches to Currency Chest. After the Shroff has verified the quality and quantity of the notes of higher denomination, he is to hand over the section to the Officer for verifying the correctness of the quantity of the notes.

The Officer should verify the correctness of the quantity in the presence of the Shroff who prepared the section. Thereafter the Shroff is to wrap the section as prescribed. Then the Shroff is to complete the filling of the details and sign in full, the denomination portion of the paper band and the Officer who recounted the notes should sign in full at the place "*Checked by*" and affix the rubber stamp indicating his or her own name in block letter for having verified the correctness of the quantity of the notes. Thus it could be seen that the sections that are being remitted at the Currency Chest should have undergone the above procedure if they have to be accepted at the Chest. If at the chest, counting and verification could not be done immediately then it can be done at a later date but it should be within 1 month from the date of the remittance. Para-7.2 of the circular states that in addition to the date already appearing, branches should affix the rubber stamp

specifying the date of remittance in the column provided on denomination portion of the paper bands in all sections sent in outward remittance to currency chest. This is to ensure that cash remittance made by branches are verified at currency chest within 1 month from the date of remittance. Para-9 of the circular gives the manner in which the verification of cash at Currency Chest is to be done at a later date. Para-9.3 states that as and when the sections, received from branches are taken out for verification, the Shroff should break open the sections and verify the quality and quantity of the notes in the presence of an Officer of the Currency Chest. Before opening, each section should be verified to ensure that the paper banding and sealing are intact. It should also be assured that the denomination portion of the paper band in each section contains all the details and is duly signed by a Shroff in the case of lower denomination notes and by a Shroff and an Officer for higher denomination notes. In the case of shortage of notes or defective notes the Chest is to take necessary steps to recover the amount.

14. Now the question to be considered is whether all the precautions specified as per the circular have been taken before remitting the cash at the Currency Chest and at the time when the sections were opened for verification before communications were sent to the branches asking for recovery. Ex.W20 is the certificate from Erode Currency Chest alongwith copies of the fake currency sent to Sankari Branch. Ex. W21, 23, 24 and 25 are also certificates issued by Erode Currency Chest alongwith copies of the fake notes. On examination of these notes it could be seen that some of the paper bands of the currency sections contain signature of the person who did the counting and also the signature of the person who did the checking, as specified in Ex.W4. However, several of them contain only one signature in violation of the prescribed procedure. It could not be deciphered if the signature is of the Shroff who counted the sections or of the Officer who checked the same. The counsel for the Respondent has of course pointed out that the person who did the counting alone is responsible for the quality of the notes and it will be of no consequence even if the person who checked the counting has not signed. Even though there is some force in the submission of the counsel the above lapse in the procedure denotes the negligent manner in which notes are counted, verified and made into sections.

15. The Authorized Representative of the petitioner has pointed out a still severe lacunae in the manner in which certificate regarding shortage of effective notes has been sent to Sankari Branch. I have already referred to the circular which states that only if the procedure detailed in paragraph 2, 3 and 4 of the circular are complied with, currency should be received at the chest. In the normal course the verification and counting of cash received at branches should not be delayed and in any case should not exceed 1 month from the date of remittance. If the

verification and counting is carried out at the time of remittance itself, the Currency Chest is to prepare a certificate giving the details of shortage, excess or defect in the notes and this certificate should be signed by the receiving Shroff. The Officer present during counting and the remitting Shroff. The form of the certificate is given as Annexure-2 of the circular. However, in Annexure-2 there is column for two persons only as witnesses, for signature of receiving Shroff or officer of the Currency Chest and for signature of Shroff of the chest remitting branch. There is no column for the signature of the Officer present during counting. Apart from this fact, the curious aspect is that the format given as Annexure-2 is prescribed to be used even if verification of cash at the Currency Chest is done at a later date. A perusal of the format shown as Annexure-2 would show that this could be used only if verification is done immediately after remittance itself, in the presence of the Shroff of the remitting branch. If verification is being done on a later date, the concerned Shroff is to break open the sections and verify the quality and quantity of the notes in the presence of an Officer of the Currency Chest. The Shroff who remitted the currency to the chest will not be available if verification is being done on a later date. This may be why Para-9.3 of the circular states that the opening of the section itself should be done in the presence of the Officer of the Currency Chest. In spite of this the certificate prescribed to be used is the format in Annexure-2 itself which is certainly not suitable for the occasion since there is no column for signature of the Shroff who does the opening and counting. On the other hand, the signature is shown as that of the Shroff of the chest remitting branch.

16. Even assuming that in the case of subsequent verification, the signature of the second witness in the certificate could be assumed to be that of the Shroff who did the opening of the section and the counting, perusal of the Ex. W20 to Ext. W25 would show that all these certificates contain the signature of only one person as witness. In all these the signature found is of the receiving Shroff of the Currency Chest. There is no way to know if this Shroff has done the opening and counting which has taken place on a later date. The Officer in whose presence the counting is supposed to have been done has not put his signature in any of the certificates. It has been pointed out by the Authorized Representative that because of this there is no assurance that the opening of the section and counting or the notes was done in the presence of the Officer at all. Such elaborate procedure is prescribed and the presence of an Officer is insisted to avoid any probable malpractice. In the absence of the signature of the Officer in any of the certificates, there is no assurance of the opening and counting having been done in the presence of the Officer and for this reason itself there is no assurance that no malpractice has been committed. It has been stated by the counsel for the respondent that the Shroff of the branches are not entitled to raise any dispute in the manner

in which the counting was done. But this must be only in cases where the prescribed procedure was followed. As I have already stated the Shroff who is verifying the quality of the notes is placed with a huge responsibility. So there should be enough protection for him to see that malpractice is not done and he is not put in trouble. For this the procedure prescribed should be followed literally. There cannot be two different measures regarding the following of the procedure at the Chest and at the branch. In the absence of the signature of the Officer in the certificates, the Currency Chest could not said to have followed the procedure for this reason itself the concerned Shroffs of Sankari Branch are not liable to make good the amount found to be in deficit because of the defective or fake notes.

17. I find that the Respondent is not entitled to recover the amount from the persons named in the reference. The Respondent is directed to return the amount if any recovered from the four Shroffs named in the reference within a month.

18. The reference is answered in favour of the petitioner.

(Dictated to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 21st January, 2014)

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined

For the 1st Party/Petitioner Union	:	None
For the 2nd Party/Management	:	None

Documents Marked :

On the petitioner's side

Ex.No.	Date	Description
1	2	3
Ex.W1	06.09.2007	Letter of the Union addressed to the Asstt. Labour Commissioner, Chennai
Ex.W2	11.10.2007	HRM Deptt.'s letter addressed to the Asstt. Labour Commissioner, Chennai
Ex.W3	19.11.2007	Letter of the Union addressed to the Asstt. Labour Commissioner, Chennai
Ex.W4	29.08.2003	Bank's circular about Clean Note Policy
Ex.W5	28.07.2007	Circle Office, Salem letter addressed to P. Ramesh, Clerk of Sankari Branch
Ex.W6	28.07.2007	Circle Office, Salem letter addressed to T. Kettimuthu, Clerk of Sankari Branch
Ex.W7	28.07.2007	Circle Office, Salem letter addressed to N.S. Kamakshi, Clerk of Sankari Branch

1	2	3
Ex.W8	28.07.2007	Circle Office, Salem letter addressed to S. Murugesan, Clerk of Sankari Branch
Ex.W9	08.08.2007	Letter addressed to Asstt. General Manager, Circle Office, Salem by P. Ramesh, T. Kettimuthu, Kamatchi, N.S. and S. Murugesan
Ex.W10	29.08.2007	Letter of Circle Office, Salem addressed to T. Kettimuthu
Ex.W11	29.08.2007	Letter of Circle Office, Salem addressed to P. Ramesh
Ex.W12	29.08.2007	Letter of Circle Office, Salem addressed to S. Murugesan
Ex.W13	29.08.2007	Letter of Circle Office, Salem addressed to Mamatchi, N.S.
Ex.W14	30.08.2007	Letter from Sankari Branch addressed to T. Kettimuthu informing about the partial recovery of the amount from his salary
Ex.W15	30.08.2007	Reply sent by T. Kettimuthu to the Manager, Sankari Branch
Ex.W16	30.08.2007	Letter from Sankari Branch addressed to S. Murugesan informing about the partial recovery of the amount from his salary
Ex.W17	30.08.2007	Reply sent by S. Murugesan to the Manager, Sankari Branch
Ex.W18	30.08.2007	Letter from Sankari Branch addressed to N.S. Kamatchi informing about the partial recovery of the amount from her salary
Ex.W19	30.08.2007	Letter from Sankari Branch addressed to P. Ramesh informing about the partial recovery of the amount from his salary
Ex.W20	09.02.2007	Certificate from Erode Currency Chest alongwith the Xerox copies of the fake currency to Sankari Branch
Ex.W21	09.02.2007	Certificate from Erode Currency Chest alongwith the Xerox copies of the fake currency to Sankari Branch
Ex.W22	31.01.2006	Certificate from Erode Currency Chest alongwith the Xerox copies of the fake currency to Sankari Branch
Ex.W23	12.02.2006	Certificate from Erode Currency Chest alongwith the Xerox copies of the fake currency to Sankari Branch

1	2	3
Ex. W24	19.02.2007	Certificate from Erode Currency Chest alongwith the Xerox copies of the fake currency to Sankari Branch
Ex.W25	22.01.2007	Certificate from Erode Currency Chest alongwith the Xerox copies of the fake currency to Sankari Branch
Ex.W26	03.07.2013	Circular of Indian Bank management from Cell for Government Transaction (Admn. 16/2013-14)

On the Management's side

Ex.M1	14.05.2005	Letter from Indian Bank, Currency Chest, Erode to Indian Bank, Sankari
Ex.M2	10.10.2005	Letter from Indian Bank, Currency Chest, Erode to Sankari Branch-reg. defective/forged notes in cash Remittance
Ex.M3	18.11.2005	Letter from Indian Bank-Currency Chest, erode to Indian Bank, Sankari Branch-enclosing copy of credit slip dated 18.11.2005 for Rs. 12,69,000/-
Ex.M4	25/29.11.2005	Letter from Indian Bank, Currency Chest, Erode to Sankari Branch
Ex.M5	22.05.2006	Letter from Senior Manager, Indian Bank, Sankari to Dy. General Manager-Audit Section-Circle Office, Salem
Ex.M6	07.06.2006	Letter from Deputy General Manager, Indian Bank-Audit Section, Circle office, Salem to Karuppannan
Ex.M7	29.06.2006	Note from Senior Manager, Indian Bank to A.B.M. Mr. Rajagopal-to recover amounts towards fake notes found in receipts by respective Staff Members
Ex.M8	12.07.2007	Letter from Indian Bank, Sankari to Deputy General Manager, Indian Bank, Circle Office—Salem
Ex.M9	18.07.2007	Letter from Indian Bank, Vigilance Section, Circle Office, Salem to K. Karuppannan-Sr. Manager/Branch Manager, Sankari Branch
Ex.M10	21.07.2007	Letter from Indian Bank, Sankari to AGM, Vigilance Section-Circle Office, Salem
Ex.M11	02.08.2007	Circular from Indian Bank, Salem-C.O., SLM, :- 2007-08-Proceedings of Standing Committee on Currency Management-to all branches and Currency Chest in Salem Circle

1	2	3
Ex.M12	29.08.2007	Letter from Indian Bank, Vigilance Section, Circle Office, Salem to Indian Bank, Sankari Branch
Ex.M13	11.09.2007	Conciliation proceedings forbidding bank from precipitating the issue further
Ex.M14	April/May 2008	Further recovery effected in April and May 2008 (Total amount so recovered is: N.S. Kamatchi Rs. 3,000/-: S. Murugesan-Rs. 5,500/-: T. Kettai Muthu-Rs. 2,000/-: S. Ramesh-Rs. 2,000/- and S. Periasamy Rs. 5,000/-
Ex.M15	26.02.2013	Letter from Zonal Office, HRM, Salem to Deputy General Manager (HRM), Chennai
Ex.M16	—	Chapter IV-"Cash Handling & Remittance Manual"-Extract 4.15-Clauses 121, 12, 13, 14 to 18
Ex.M17	—	Chapter V-"Cash Handling & Remittance Manual"-5.1-clauses: 1 to 4

नई दिल्ली, 14 फरवरी, 2014

कांआ 849.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चैन्नई पतन न्यास के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (94/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/2/2014 को प्राप्त हुआ था।

[सं एल-33011/8/2012-आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 849.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 94/2012) of the Cent. Government Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the Industrial dispute between the management of Chennai Port Trust and their workmen, received by the Central Government on 14/02/2014.

[No.L-33011/8/2012-IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 10th January, 2014

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 94/2012

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Chennai Port Trust and their workman)

BETWEEN

The General Secretary : 1st Party/Petitioner Union
The Transport and Dock
Workers Union
No. 9, Second Line Beach
Chennai-600001

AND

The Chairman, : 2nd Party/Respondent
Chennai Port Trust
No. 1, Rajaji Salai
Chennai-600001

Appearance:

For the 1st Party/ M/s Y.N. Venkatraj,
Petitioner Union : G. Vijaya, Advocates

For the 2nd Party/ Sri S.P. Patel, Advocate
Respondent :

AWARD

The Central Government, Ministry of Labour & Employment, vide its Order No. L-33011/8/2012-IR (B-II) dated 22.11.2012 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the management of Chennai Port Trust, Chennai, in denying promotions to 308 Sr. Assistants to the post of Asstt. Superintendents in accordance with the Shankaran Award is just, legal and fair? What relief the workmen are entitled to?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 94/2012 and issued notices to both sides. Both sides have entered appearance through their counsel and have filed their claim and counter statement respectively. After Counter Statement was filed the case was posted for evidence, continuously. However, neither the petitioner nor his counsel has cared to be present in Court or pursued the matter. Apart from the Claim Statement filed, no other material is available to substantiate the case of the petitioner. The petitioner is not entitled to any relief.

3. The reference is answered against the petitioner.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 10th January, 2014)

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : None
For the 2nd Party/Management : None

Documents marked

On the petitioner's side

Ex.No.	Date	Description
		Nil

On the Management's side

Nil
नई दिल्ली, 14 फरवरी, 2014

कांआ 850.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (126/05) प्रकाशित करती है जो केन्द्रीय सरकार को 14.2.2014 को प्राप्त हुआ था।

[सं एल-12012/77/2005-आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 850.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.126/2005) of the Cent. Government Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of Bank of India and their workmen, received by the Central Government on 14/02/2014.

[No.L-12012/77/2005-IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/126/2005

Presiding Officer: SHRI R.B. PATLE

Shri Kashi Ram Verma,
S/o Shri Ganpat Verma,
Vill. & PO Ojhar,
Tehsil Raipur,
Distt. Badwani,
Raipur

.....Workman

Versus

Chief Regional Manager,
Bank of India,
Regional office, Khandwa Region,
Anand Nagar,
Khandwa (MP)

...Management

AWARD

(Passed on this 26th day of September 2013)

1. As per letter dated 7-11-2005 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/77/2005-IR(B-II). The dispute under reference relates to:

"Whether the action of the management of Chief Regional Manager, Bank of India, Khandwa Region, Khandwa in imposing the punishment of dismissal from service on Shri Kashi Ram Verma S/o Shri Ganpat Verma w.e.f. 16-12-2000 is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/3. The case of Ist party workman is that he was conducted properly. Principles of natural justice were not followed by the IInd party. The enquiry was not conducted as per the Bipartite Settlements. Clause 19.12 A,B were violated. Clause 19.11 of Bipartite settlement dated 19-10-66 was not followed. He was not given opportunity for his defence. He was not allowed time for producing his defence representative. The services were terminated without issuing showcause notice after receiving report of the Enquiry Officer.

3. That workman was working from 25-1-79. He was in continuous service. Any memo or warning was not issued to him. His service record was unblemished. On such grounds, workman prays for setting aside order of his termination and prays for reinstatement with consequential benefits.

4. IInd party submitted Written Statement at Page 7/1 to 7/10. IInd party submits that General Secretary of the Union Shri Nagwanshi has no locus standi to represent the workman being dismissed employee of State Bank of Indore. The workman was dismissed w.e.f. 16-12-02. The dispute is raised in 2005 is highly belated. That chargesheet was issued to the workman for serious misconduct of mis-appropriation of amount and forgery of documents details given in Para-4 of the Written Statement. Enquiry Officer read over charges to the workman. The charges were admitted by him. Therefore enquiry was concluded. The Enquiry Officer recorded findings that charges were proved, showcause notice was issued to workman on 7-12-2000. Then punishment of dismissal is legal. IInd party

denied violation of the bipartite settlement while conducting enquiry. Adverse contentions of the workman have been denied. The employee accepted charges unconditionally. The charges stood proved. There was no necessity of Enquiry Officer to ask management to produce evidence. Para 19.5 j of Bipartite settlement provides for dismissal without notice for different kinds of misconduct. IInd party submits that workman is not entitled to relief prayed by him.

5. Workman filed rejoinder at Page 9/1 to 9/3 reiterating his contentions in Statement of claim. That enquiry conducted against him was not proper. Principles of natural justice were not followed.

6. As per order dated 28-2-2012 my predecessor found enquiry conducted against workman as legal and proper.

7. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the misconduct alleged against workman is proved from evidence in Enquiry Proceedings?	In Affirmative
(ii) Whether punishment of dismissal imposed against workman in proper and legal?	In Affirmative
(iii) What relief the workman is entitled to?"	Relief prayed by workman is rejected.

REASONS

8. As state above, enquiry conducted against workman was found legal and proper as per order dated 28-2-2012. The question remains whether the evidence in Enquiry Proceedings is sufficient to prove misconduct. Prior to legality 6 of enquiry was decided affidavit finds reference that heavy punishment was imposed against him. After enquiry is found legal, evidence is adduced by workman filing affidavit on 26-2-2012. The said affidavit also has stated that he was not given opportunity for his defence. List of witnesses and documents were not supplied to him. Said evidence in affidavit of workman cannot be considered as enquiry is found legal. In para-8 of his affidavit, workman states that the admission of the charges were obtained from him representing that the enquiry would be completed earliest. Punishment of dismissal was imposed without notice. In his cross-examination, workman admits that both the affidavit of evidence filed by him relates to the enquiry conducted against him. Any specific circumstances are not stated in his affidavit of evidence to point out how the punishment is exorbitant.

9. The chargesheet is produced at Exhibit W-2. The charges relates to fraudulently issuing Gramin Tara Deposit Pass deposite to Shri Wahid Nizamuddin and taking fake entries of Rs. 30,000 on 17-4-99 & 27,000 on 17-12-99 collecting monthly instalments of Rs. 3000/- but not depositing said amount. In view of enquiry is found legal and finding of Enquiry Officer that the delinquent workman admitted charges, the misconduct was proved, the evidence in Enquiry Proceedings only needs to be considered. The admission of Ist party workman is referred in Exhibit W-6, W-7. The misconduct alleged against Ist party workman is proved from admission. I therefore record my finding on Point No. 1 in Affirmative.

10. Issue No. 2—

The propriety of punishment of dismissal needs to be considered. The charges against Ist party workman were relating to forgery of documents and taking entries of amount Rs. 30,000/-, 20,000/- collecting monthly instalments as shown in Exhibit W-2. Showcause notice is issued to workman as per Exhibit W-9. Learned counsel for IInd party Mr. N.B. Sharma submits that as per findings of Enquiry Officer, the charges are proved relates to misappropriation of amount forgery of documents, punishment of dismissal is proper. In support of his argument, learned counsel relies on ratio held in 2008-II-LLJ-374. The ratio held in case of Sunder Pathak versus General Manager Union Bank of India. His Lordship of High Court dealing with the dismissal from service of Head Cashier of Bank findings of Enquiry based on evidence of misappropriation of funds held no interference is called for.

1999-Vol-II LLJ 194 is relied by learned counsel in case of management of Catholic Syrian Bank Ltd. versus Industrial Tribunal Madras 104 and others. His Lordship of Madras High Court dealing with powers under Section-11 of I.D. Act held Industrial Tribunal cannot interfere with quantum of punishment if proved misconduct is grave in nature warranting dismissal from service. Quantum of punishment can be exercised only when it is established that proved charges and penalties imposed are not proportionate to each other after considering all aspects.

In 2008-LLJVol-II, Page 313 case of Uttaranchal Transport Corporation versus Sanjay Kumar Nautiyal. Their Lordship of Apex court dealing with dismissal of conductor from service on charges of misappropriation held interference with punishment on ground amount involved was meager, not sustainable.

Considering ratio in above cases and charges of forgery, misappropriation of mount proved as per report of enquiry proceedings, no interference in the punishment of dismissal is called for. For above reasons, I record my finding in Point No. 2 in Affirmative.

11. In view of my finding in Point No. 1 & 2, workman is not entitled to relief prayed by him. Accordingly I hold and award is passed as under:—

- (1) Action of the management of Chief Regional Manager, Bank of India, Khandwa Region, Khandwa in imposing the punishment of dismissal from service on Shri Kashi Ram Verma S/o Shri Ganpat Verma w.e.f. 16-12-2000 is legal.

- (2) Relief prayed by workman is rejected.

12. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

R. B. PATLE, Presiding Officer

नई दिल्ली, 14 फरवरी, 2014

का०आ 851.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जैट एअरवेज के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 46 का 2009) प्रकाशित करती है जो केन्द्रीय सरकार को 14/2/2014 को प्राप्त हुआ था।

[सं० एल-11012/14/2009-आई आर (सीएम-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 851.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 46/2009) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial dispute between the management of M/s. Jet Airways, and their workmen, received by the Central Government on 14/02/2014.

[No. L-11012/14/2009-IR(CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 29th November, 2013

Present : K.P. PRASANNA KUMARI, Presiding Officer
Industrial Dispute No. 46/2009

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of M/s. Sahara Airlines Ltd. and their workman)

BETWEEN

Sri S. Soundararajan : 1st Party/Petitioner

AND

1. M/s Sahara Airlines Ltd.: 2nd Party/1st Respondent
New Delhi-110057

2. M/s. Sahara India : 2nd Party/2nd Respondent
Commercial Corpon. Ltd.
Kapoorthala Complex, Aliganj
Lucknow-226024

3. M/s. Jet Airways Ltd. : 2nd Party/3rd Respondent
Andheri East, Mumbai-400059

Appearance:

For the 1st Party/Petitioner: Absent

For the 1st Party/ : M/s. Gupta & Ravi,
1st Respondent Advocates

For the 2nd Party/ : Sri Devraj,
2nd Respondent Authorized Representative

For the 2nd Party/ : M/s. Gupta & Ravi,
3rd Respondent Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-11012/14/2009-IR (CM-I) dated 19.06.2009 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the demand of Sri S. Soundararajan for his absorption in Jet Lite by the Management of Jet Airways with reference to the Share Purchase Agreement of dated 01.04.2007 entered by the Management of Jet Airways (India) Limited, Sahara India Commercial Corporation Limited and others and Sahara Airlines Limited is justified and legal? (ii) To what relief is the workman concerned entitled?"

2. The petitioner has been continuously absent. He has not made himself available for cross-examination. The counsel for the petitioner has endorsed stating that he has no instruction from the petitioner.

3. No material is available to substantiate the case of the petitioner. So he is not entitled to any relief.

4. The reference is answered against the petitioner. An award is passed accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 29th November, 2013)

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner: None

For the 2nd Party/Management: None

Documents Marked:

On the petitioner's side

Ex.No. Date Description

N/A

On the Management's side

Ex.No. Date Description

N/A

नई दिल्ली, 14 फरवरी, 2014

का०आ० 852.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जैट एअरवेज के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 50 का 2009) प्रकाशित करती है जो केन्द्रीय सरकार को 14/2/2014 को प्राप्त हुआ था।

[सं० एल-11012/18/2009-आई आर (सीएम-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 852.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 50/2009) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial dispute between the management of M/s. Jet Airways, and their workmen, received by the Central Government on 14/02/2014.

[No.-L-11012/18/2009-IR(CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 9th January, 2014

Present : K.P. PRASANNA KUMARI, Presiding Officer
Industrial Dispute No. 50/2009

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of M/s. Sahara Airlines Ltd. and Two Others and their workman)

BETWEEN

Sri P.C. Rajesh Kumar: 1st Party/Petitioner

AND

1. M/s. Sahara Airlines Ltd.: 2nd Party/1st Respondent
L-70/329, Mahipalpur

Extension, New Delhi-110037

2. M/s. Sahara India Commercial 2nd Party/2nd
Corpon. Ltd.: Respondent

Aliganj

Lucknow-226024

3. M/s. Jet Airways Ltd.,
Andheri East, Mumbai-400059: 2nd Party/3rd
Respondent

Appearance:

For the 1st Party/Petitioner :

Sri K. Sudalaikannu,
S. Annamalai,
Advocates

For the 2nd Party/1st and 3rd

Respondent:

M/s. Gupta & Ravi,
Advocates

For the 2nd Party/2nd

Respondent:

Sri V. Devraj,
Authorized
Representative

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-11012/18/2009-IR (CM-I) dated 19.06.2009 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the demand of Sri P.C. Rajesh Kumar for his absorption in Jet Lite by the Management of Jet Airways with reference to the Share Purchase Agreement of dated 01.04.2007 entered by the Management of Jet Airways (India) Limited, Sahara India Commercial Corporation Limited and others and Sahara Airlines Limited is justified? (ii) to what relief is the workman concerned entitled?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 50/2009 and issued notices to both sides. Both sides entered appearance through their respective counsel and filed claim and counter statements respectively. The evidence was recorded in the case also and the matter has been posted for hearing. In the meanwhile, the parties have settled the matter. They have filed a joint memo stating that they have entered into a settlement regarding the dispute and that the petitioner is withdrawing the dispute.

3. In the above circumstance, the above ID is closed with withdrawn.

(Dictated to the P.A. , transcribed and typed by him, corrected and pronounced by me in the open court on this day the 9th January, 2014)

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner: None

For the 2nd Party/Management: None

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
		Nil

On the Management's side

Ex.No.	Date	Description
		Nil

नई दिल्ली, 14 फरवरी, 2014

का०आ० 853.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार (संदर्भ संख्या 14/2009) डायरेक्टर, सवनिरतर, कुट्टक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय भुवनेश्वर के पंचाट (संदर्भ संख्या 14/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/02/2014 को प्राप्त हुआ था।

[सं० एल-42012/63/2008-आईआर(डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 853.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D No. 14/2009) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Director, SVNIRTAR, Cuttack and their workman, which was received by the Central Government on 06/02/2014.

[No.L-42012/63/2008-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, BHUBANESWAR

Present:

Shri J. Srivastava,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 14/2009

Date of Passing Award - 28th October 2013

Between:

The Director, SVNIRTAR. At/Po. Olatpur, Cuttack.
...1st Party-Management.

(AND)

Their workman Shri Sridhar Behera,
S/o. Shri Baidhar Behera, AT Anthuari,
Po. Prataprudrapur, PS. Balipatna,
Khurda, Orissa.

...2nd Party-Workman.

Appearances:

Shri S.N. Majhi, Auth Representative.
For the 1st Party-Management.

Shri Sridhar Behera.
For himself the 2nd Party Workman.

AWARD

The Government of India in the Ministry of Labour has referred an industrial dispute existing between the management of SVNIRTAR and their workman in exercise of the powers conferred by clause (d) of sub section (I) and sub-section (2A) of Section 10 of the Industrial Disputes Act vide its letter No. L-42012/63/2008 - IR (DU) dated 02.03.2009 in respect of the following matter:

"Whether the action of the management of Swami Vivekananda National Institute of Rehabilitation and Research in terminating the services of their workman Shri Sridhar Behera, w.e.f. 14.09.2007 is legal and justified? If not, to what relief the workman is entitled to?"

2. The 2nd Party-workman in his statement of claim has averred that he was initially appointed in the post of Helper on 01.01.1996 on daily wage basis @ Rs. 52.50 per day in the maintenance section of the establishment of the 1st Party-Management. He had been working continuously without any break except Sundays & Holidays sincerely and honestly to the best satisfaction of the 1st Party-Management. He had worked 240 days in each completed year. He was paid salary by the 1st Party-Management through the vouchers month-wise which are available in the office of the 1st Party-Management. He had worked in the post of Helper from 01.01.1996 to 05.02.2001. Thereafter he was directed to join in the Library Section as library attendant on 06.02.01 where he continued till 31.05.2004. Then his services were terminated with effect from 01.06.2004. He was again engaged through the intervention of the Union on 01.07.2004 in the Audit Wing of the establishment in the post of attendant. He continued to work there till 30.9.2004 and thereafter again he was directed to work in the said Audit Wing on 01.07.2005, where he continued till 30.9.2005. He was again engaged on 18.7.2006 and continued till 29.09.2006. Once again he was engaged from 12.07.2007 to 13.09.2007. Thereafter his services were terminated with effect from 14.09.2007. He approached the Director for engagement who assured him to provide job. But no action was taken by him. He also submitted an application on 02.01.2009 requesting him to allow him to continue in his employment, but his application was not considered. The order of refusal of employment with effect from 14.09.2007 is highly illegal and improper and violative of the procedure of Law and standing order of the Management. There is enough work in the establishment. Therefore there was no need to terminate his services, but to avoid regularization of service his services were intentionally terminated. His prayer is that he may be reinstated in service with full back wages and other dues after declaring the order of termination as illegal, improper and unjustified.

3. The 1st Party-Management in its written statement has stated that it is an autonomous Rehabilitation Training

and Research Institute registered under the Societies Act, 1860 to serve the persons with disabilities and to impart training to the professionals in the field of rehabilitation of disabled persons and having hundred bed hospital. The establishment is not doing any business or trade to come under the purview of Section 2(j) of the Industrial Disputes Act, 1947 and as such the reference is to be answered negatively. The 2nd Party-workman was engaged for a fixed period to assist the A.G. Audit party to bring the relevant records from the concerned department to the audit party and to place the same in respective place for a period from 11.7.2007 to 12.09.2007. He was paid Rs. 4480/- as wages for the above period. All other averments made by the 2nd Party-workman in his statement of claim are false, frivolous and denied. It is false to allege that the 2nd Party-workman was initially appointed in the post of helper on 01.01.1996 on daily wage basis at the rate of Rs. 52.50 per day in the maintenance section of the establishment of the 1st Party-Management, It is also false to allege that the 2nd Party-workman has completed 240 days in service in each completed year. The allegation of refusal of employment with effect from 14.9.2007 does not arise at all and there is no question of violation of any procedural law or the standing order Therefore the reference is liable to be dropped.

4. On the pleadings of the parties, following issues were framed:—

ISSUES

1. Whether Swami Vivekananda National Institute of Rehabilitation Training and Research (SVNIRTAR) will come under the purview of Industrial Disputes Act?
2. Whether the action of the Management of Swami Vivekananda National Institute of Rehabilitation and Research in terminating the services of Shri Sridhar Behera with effect from 14.9.2007 is legal and justified?
3. If not, to what relief the workman is entitled?

5. To prove his case the 2nd Party-workman has examined four witnesses. W.W.-1 Shri Sridhara Behera is the 2nd Party-workman himself W.W.-2 is Ajaya Kumar Mohanty, Junior Assistant in the establishment of the 1st Party-Management. W.W.-3 Shri Sundar Mohan Baskey, Junior Assistant in the establishment of the 1st Party-Management and W.W.-4 Mrs. Aparna Das is the Asst Library & Inform Officer in the establishment of the 1st Party-Management.

The 2nd Party-workman has also relied upon eight documents marked as Ext.-1 to 8.

6. The 1st Party-Management has examined Shri Biswanath Mallick as M.W.-1 and relied upon one document marked as Ext-A.

FINDINGS

ISSUE NO. 1

7. Although the 1st Party-Management has stated that its establishment has not been doing any business or trade and as such it is not amenable to the jurisdiction of this Tribunal not being an industry, yet it is to be mentioned that it is running a hundred bed hospital for rendering service to the persons with disabilities and is also running a mess for the hospital patients. It also imparts training to the professionals in the field of rehabilitation and manufactures artificial limbs and provides them to the physically handicapped persons. It cannot be said that all these facilities are provided free. Therefore, it cannot be denied that the 1st Party-Management is an industrial establishment and the employees engaged by it are workmen. Further, it seems that the 1st Party-Management has later given up this issue as nothing has been said by its witness M.W.-1 Shri Biswanath Mallick in his evidence before this Tribunal, whereas the 2nd party-workman has categorically stated that the 1st Party-Management is an industry. The burden to prove this issue shifts on the 1st Party-Management when the initial onus is discharged by the 2nd Party-workman. But the 1st Party-Management has failed to discharge this burden. As such it is held that the Swami Vivekananda National Institute of Rehabilitation Training and Research (SVNIRTAR) will come under the purview of the Industrial Disputes Act. This issue is accordingly decided in the affirmative.

ISSUE NO. 2

8. The 2nd Party-workman has alleged to have worked with the 1st party-Management from 1.1.1996 to 13.9.2007 on different posts, first as helper in the maintenance section of the establishment of the 1st Party-Management from 1.1.1996 to 5.2.2001, then as library attendant in the Library Section from 6.2.2001 to 31.5.2004 in the Library section, then as attendant in the Audit Wing of the establishment from 11.7.2004 to 30.9.2004, 11.7.2005 to 30.9.2005, 18.7.2006 to 29.9.2006 and 12.7.2007 to 13.9.2007. This shows that he was intermittently engaged, if his version is taken as true. On the contrary the 1st Party-Management has admitted to have engaged him only from 11.7.2007 to 12.9.2007 to assist the A.G. Audit party in bringing the relevant records from the concerned department to the audit party and to place the said records in their respective place and for that he was paid wages amounting to Rs. 4480/-. All other allegations regarding his engagement have been denied by the 1st Party-Management.

9. To prove his claim the 2nd Party-workman has relied upon certain documents, which are in the shape of xerox copies and marked as Ext-1 to 8. These documents are inter-office notes. The 1st Party-Management has denied their genuinity and alleged them to be forged. If these documents are taken into account, they only go to

show that the 2nd Party-workman had worked for certain days as contractual labourer in the month of January to May, 2004. Therefore these documents are not of much help to prove that the 2nd Party-workman had worked with the 1st Party-Management for a long span time as alleged by him in his claim statement. On the other hand the 1st Party-Management has filed a money receipt in original, marked as Ext.-A bearing the signature of the 2nd Party-workman regarding payment of Rs. 4480 for working under the 1st Party-Management from 11.7.2007 to 12.9.2007. This document proves the stand taken by the 1st Party-Management. Its witness M.W.-1, Shri Biswanath Mallick while proving this document has deposed that "the disputant had only worked for two to three months for audit work under the 1st Party-Management." He has denied that the disputant had worked from 1996 to 2007. The oral evidence led by the 2nd Party-workman is not trustworthy being shaky and inconsistent with one another witness. The 2nd Party workman examined as W.W.-1 has stated in his cross examination that "it is a fact that I had worked at the A.G. Audit for three to four months under the Management from the year 2004 to 2007". But there is no documentary proof of his working in the A.G. Audit from 2004 to 2007. He has admitted that the Management has not given him any appointment order and his name was not sponsored from the Employment Exchange. He has also admitted that no letter was issued to him to work in the library of the Management. The oral statement of his engagement and working for such a long period cannot be accepted without any documentary proof W.W.- 2 Shri Ajay Kumar Mohanty has although asserted that "the disputant workman was working in the audit and accounts work under the Management from the year 2004 to 2006", but he has no knowledge as to whether the disputant workman was working in the library of the 1st Party-Management or not. In his cross examination he has resiled from his earlier statement by stating that "it is a fact that, the disputant workman was working only for two months when the A.G. Audit is being done at the Management's office". How the evidence of this witness can be believed? W.W.- 3 Shri Sundar Mohan Baskey has stated in his evidence that "the disputant workman has joined under the Management in the library on 6.2.2001" and he was getting wages monthly from the management directly. Even the 2nd party-workman has not stated that he was getting wages from the management directly. He could not tell as to whether there was any post called library attendant. Although he was transferred to library in the year 2001, as alleged by him, but he could not produce any documentary evidence in support of the claim of the disputant that he was working under the Management. W.W.-4 Smt. Aparna Das has stated in her evidence that the disputant workman was working in the audit wing, but she could not tell the date from which she was knowing the disputant workman and whether the disputant workman had worked in the library during her tenure, though she is

the Asst. Library and Information Officer working under the Management since 1996. Further she has denied that the disputant had worked under her control as library attendant while she was in-charge of library. Therefore the evidence of all these witnesses is of no significance and that cannot be relied upon. In my view the 2nd party workman has failed to prove his case as to his engagement by the 1st Party-Management since 1996 till September, 2007 on different posts and his disengagement from 14.9.2007. Admittedly he was engaged by the 1st Party-Management to assist the A.G Audit party from 11.7.2007 to 12.9.2007 and thereafter he was disengaged. Since engagement for a fixed period does not create any right in his favour for reinstatement under the Industrial Disputes Act, 1947 no question arises to assess the legality and justification of the action of the management in terminating his services with effect from 14.9.2007. This issue is decided accordingly against the 2nd Party-workman.

ISSUE NO. 3

10. In view of my findings recorded above the 2nd party-workman is not entitled to any relief.

11. Reference is answered accordingly.

Dictated & Corrected by me.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली, 14 फरवरी, 2014

का०आ० 854.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एतद्वारा चीफ जनरल मैनेजर, भारत संचार निगम लिमिटेड एंड अदर्स, भुवनेश्वर के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 21/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 06.02.2014 को प्राप्त हुआ था।

[सं० एल-40012/105/2012-आईआर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 854.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 21/2013) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Chief General Manager, Bharat Sanchar Nigam Limited & Others, Bhubaneswar and their workman, which was received by the Central Government on 06.02.2014.

[No. L-40012/105/2012-IR(DU)]

P. K. VENUGOPAL, Section Officer

IDC/21/2013**No .L-40012/105/2012—IR(DU)****ORDER**

No. L-40012/104/2012-IR(DU).—Whereas the Central Government is of the opinion that an industrial dispute exists between the employers in relation to the management of Bharat Sanchar Nigam Limited, and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now therefore, in exercise of the powers conferred by clause(d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby refers the said dispute for adjudication of the Cent-Govt. Indus.Tribunal-cum-Labour Court, Bhubaneswar. The said Tribunal shall give its award within a period of three months.

SCHEDULE

"Whether the action of the M/s Shakti Electricals (Prop. Sri Shakti Prasad Ray), Contractor, N/4, 148, IRC Village, Nayapalli, Bhubneswar-15 in terminating the services of Sri Bhemsan Muduli, Ex-AC Operator, AC Plant, Telephone Exchange, BJB Nagar, Bhubneswar w.e.f. 23.12.2011 without complying the provision of Industrial Disputes Act, 1947 is legal and justified? If not, what relief the Sri Muduli is entitled to?"

JOHAN TOPNO, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT BHUBANESWAR****Present:**

Shri J. Srivastava, Presiding Office,
C.G.I.T. cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 21/2013

Date of Passing Order-12th August 2013

Between

1. The Chief General Manager,
Bharat Sanchar Nigam Limited,
Orissa Telecom Circle, PMG Square,
Bhubaneswar (Orissa).

2. Shri Shakti Prasad Ray,
M/s Shakti Electricals,
N/4, 148, IRC Villages Nayapalli,
Bhubaneswar (Orissa)-15

...1st Party-Managements

(AND)

Shri Bhimsen Muduli,
AC Operator, BSNL,
Telephone Exchange, PKG AC Plant,
B.J.B. Nagar, Bhubaneswar (Orissa)

...2nd Party-Workman

Appearances:

None.

... For the 1st Party-
Managements.

None. ...

For the 2nd Party-
Workman.

ORDER

Case taken up. None of the parties is present. The 2nd Party-workman was required to file his statement of claim in pursuance of the order of reference within fifteen days of the receipt of the order. But the 2nd party-workman has failed to file any statement of claim neither in pursuance of the order of reference nor having been noticed twice first on 6.5.2013 by ordinary post and second on 1.7.2013 by regd. post by this Tribunal. This reference was received in this Tribunal on 1.4.2013 having been referred by the Government vide its letter dated 26.2.2013. The statutory mandate is to decide the dispute within three months of the receipt of the reference. A period of more than four months has expired, but the 2nd Party-workman has not shown the least interest in prosecuting his case either by putting in appearance or by filing his statement of claim. Without pleadings of the parties the matter under dispute cannot be adjudicated. It might be that the 2nd Party-workman has settled his dispute with the 1st Party-Management amicably out of the court. But instead of passing a non-dispute award it would be expedient in the interest of justice to return the reference unanswered to the Government for taking necessary action at its end.

2. I order accordingly and return the reference unanswered to the Government for taking necessary action at its end.

Dictated & Corrected by me.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली, 14 फरवरी, 2014

का०आ० 855.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रोजेक्ट डायरेक्टर, नेशनल हाइवेज अथॉरिटी ऑफ इंडिया एंड अदर्स, भुवनेश्वर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट संदर्भ संख्या 03/2014 को प्रकाशित करती है जो केन्द्रीय सरकार को 06.02.2014 को प्राप्त हुआ था।

[स० एल-42025/03/2014-आई आर (डीयू)]

पी०के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 855.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No 03/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Project Director, National Highways Authority of India & Others, Bhubaneswar and their workman, which was received by the Central Government on 06.02.2014.

[No. L-42025/03/2014-IR(DU)]

P.K. VENUGOPAL, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT BHUBANESWAR

Present:

Shri J. Srivastava,
Presiding Office, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 3/2014

Date of Passing Order-22nd January, 2014

Between

1. The Project Director,
National Highways Authority of India,
1st Floor, SETU Bhavan, Nayapalli,
Unit-VIII, Bhubaneswar.

2. The Management of Egle Infra Ltd.,
Tool Plaza, Gangapada, Dist. Khurda,
...1st Party-Managements

(And)

Shri Benudhar Nayak,
S/o Jaladhar Nayak,
Vill. Jahnipada
PO. Harekrushnapur, Ps. Itamati,
Dist. Nayagarh,

...2nd Party-Workman

Appearances:

None.

... For the 1st Party
Managements.

Shri Benudhar Nayak. ... For Himself the 2nd
Party-Workman

ORDER

Case presented today before me. The 2nd Party-workman is present in person. The 1st Party-Management No. 1 and 2 are absent. The case is at initial stage. However, notices have been issued to the 1st Party-Management. The 2nd Party-workman on 6.1.2014 has moved a petition before this Tribunal that an amicable settlement has been

arrived at with the company and the company has agreed to re-appoint him in his previous service. So he is not willing to continue with the case and permission to withdraw the case be granted.

2. I have heard the 2nd Party-workman. He still wants to withdraw the case on the assurance of the company to re-appoint him. I find no legal impediment in allowing the petition. Therefore the petition to withdraw the case is allowed. The 2nd Party-workman is permitted to withdraw the case.

3. The application filed under section 2-A of the Industrial Disputes Act, 1947 is accordingly dismissed as withdrawn.

Dictated & Corrected by me.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली, 14 फरवरी, 2014

कांआ 856.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एतद्वारा प्रोजेक्ट डायरेक्टर, नेशनल हाइवेज अथॉरिटी ऑफ इंडिया एंड अदर्स, भुवनेश्वर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय भुवनेश्वर के पंचात (संदर्भ संख्या 02/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 06.02.2014 को प्राप्त हुआ था।

[सं एल-42025/03/2014-आई आर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 856.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No 02/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Project Director, National Highways Authority of India & Others, Bhubaneswar and their workman, which was received by the Central Government on 06.02.2014.

[No. L-42025/03/2014-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT BHUBANESWAR

Present:

Shri J. Srivastava, Presiding Office,
C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 2/2014

Date of Passing Order-22nd January, 2014

Between :

1. The Project Director,
National Highways Authority of India,
1st Floor, SETU Bhavan, Nayapalli,
Unit-VIII, Bhubaneswar.

2. The Management of Egle Infra Ltd.,
Tool Plaza, Gangapada, Dist. Khurda,
...1st Party-Managements

(And)

Shri Braja Bihari Sethi,
S/o. Bhagaban Sethi,
Vill. Dampada, P.O. Dampada,
P.S. Bank, Distt. Cuttack.

...2nd Party-Workman

Appearances:

None.

... For the 1st Party-
Managements.

Shri Braja Bihari Sethi ... For Himself the 2nd
Party-Workman

ORDER

Case presented today before me. The 2nd Party-workman is present in person. The 1st Party-Management No. 1 and 2 are absent.

The case is at initial stage. However, notices have been issued to the 1st Party-Management. The 2nd Party-workman on 6.1.2014 has moved a petition before this Tribunal that an amicable settlement has been arrived at with the company and the company has agreed to re-appoint him in his previous service. So he is not willing to continue with the case and permission to withdraw the case be granted.

2. I have heard the 2nd Party-workman. He still wants to withdraw the case on the assurance of the company to re-appoint him. I find no legal impediment in allowing the petition. Therefore the petition to withdraw the case is allowed. The 2nd Party-workman is permitted to withdraw the case.

3. The application filed under section 2-A of the Industrial Disputes Act, 1947 is accordingly dismissed as withdrawn.

Dictated & Corrected by me.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली, 14 फरवरी, 2014

का०आ० 857.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एतद्वारा डिस्ट्रिक्ट मैनेजर, दूरसंचार, मिर्जापुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके

कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 05/2003) प्रकाशित करती है जो केन्द्रीय सरकार को 06/02/2014 को प्राप्त हुआ था।

[सं० एल-40012/187/2002-आईआर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 857.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 05/2003) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The District Manager, Doorsanchar, Mirzapur and their workman, which was received by the Central Government on 06/02/2014.

[No. L-40012/187/2002-IR (DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE SRI RAM PARKASH, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, KANPUR**

Industrial Dispute No. 05 of 2003

Sri Sanjai Kumar Yadav,
Son of Sri Kailash Nath Yadav,
Vishudarpur, PO Sadar,
Mirzapur.

Versus

The District Manager,
Doorsanchar,
PO Sadar,
Hana Kotwali Sahar,
Mirzapur.

AWARD

1. Central Government, Mol, New Delhi, *vide* notification no. L-40012/187/2002/IR/DU, dated 05.02.2003, has referred the following dispute for adjudication—

2. Whether the action of the management of BSNL Telecom, District Manager, Mirzapur, in terminating the services of Sri Sanjai Kumar Yadav with effect from 15.12.96 is legal and justified? If not to what remedy he is entitled for?

3. Brief facts are—

4. It is stated by the applicant that he was appointed by the opposite party on 24.08.94 at the post of Jeep Driver. He continued to be in the services of the opposite party regularly and his work and conduct remained outstanding that is why he was never served with any memo or charge

sheet by the opposite party. Although the nature of work performed by the applicant was of regular nature but he was paid at daily rate basis at the rate of Rs. 50/- per day. It is stated that the claimant had worked continuously for more than 240 days in each calendar year therefore was liable to be declared as regular and permanent employee of the opposite party. He raised his demand for declaring him to be a permanent employee of the opposite party which annoyed the officers of the department as a result of which he was removed from the services of the department with effect from 15.12.96, without offering him any retrenchment compensation.

5. By way of amendment it has also been stated by the claimant that under the opposite party there is a scheme for providing temporary status to the daily rated workers. As per this scheme whenever a casual labour works continuously in the service of opposite party for a period of one year he is conferred temporary status and thereby he is entitled to be given appointment on regular and permanent basis.

6. Therefore, the termination of the service of the applicant is bad in law. He has therefore, prayed that he be reinstated in the service of the opposite party with full back wages.

7. The claim of the applicant has been contested by the opposite party on a number of grounds. However, the opposite party has not stated about the continuous working of the claimant in their reply. Only this much has been denied that the opposite party has flouted the provisions of section 25F of the Act. It is also stated that the applicant was never appointed against any regular and permanent post by the department. He was kept for driving the Jeep for short period due to non selection of a regular incumbent. Payment of wages as claimed by the claimant has also been admitted by the opposite party in their written statement, therefore, he cannot claim for his regularization of service. Here it may be made clear that as per reference order it is not a case of regularization rather a case of termination of the service of the claimant.

8. Further allegation have also been raised by the opposite party but considering them it is not found necessary to detail the same as to the tribunal they are not found material for the purpose of deciding the case.

9. Rejoinder has also been filed by the claimant but nothing new has been said therein.

10. The claimant besides adducing his evidence as W.W. 1 has also filed documents per list dated 10.05.04 paper no. 11/2.

11. The claimant was also cross examined by the opposite party thoroughly.

12. Opposite party has not adduced any evidence oral as well as documentary in the case.

13. I have heard the arguments of the parties at length and considering the evidence of the claimant coupled with the documents filed by him, the tribunal has come to the conclusion that the claimant has completed for more than 240 days preceding one calendar year from the date of his termination. He has categorically stated the fact that at the time of his termination no notice or notice pay was given to him as provided under the provision of section 25F of the Industrial Disputes Act, 1947. Nothing has come out in his evidence which may make the claim of the applicant unbelievable.

14. Therefore, in the absence of any evidence from the side of the opposite party the tribunal is fully inclined to believe the claim of the applicant.

15. Therefore, it is held that the termination of the applicant by the opposite party with effect from 15.12.96 is in breach of the provisions of section 25F of the Act, and thus is liable to be set aside. Accordingly the termination of the applicant is set aside.

16. It is further held that the applicant is entitled to be reinstated in the service of the opposite party with 20% of back wages.

17. Reference is answered accordingly in favour of the applicant and against the opposite party.

RAM PARKASH, Presiding Officer

नई दिल्ली, 14 फरवरी, 2014

का०आ० 858.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एतद्वारा डायरेक्टर, इंडियन इंस्टिट्यूट ऑफ पैलेस रिसर्च, कल्याणपुर, कानपुर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 205/99, 206/99 और 207/99) को प्रकाशित करती है जो केन्द्रीय सरकार को 06/02/2014 को प्राप्त हुआ था।

[सं० एल-42012/82/99-आईआर (डीयू),

सं० एल-42012/81/99-आईआर (डीयू),

सं० एल-42012/70/99-आईआर (डीयू)]

पी०के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 858.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 205/99, 206/99 and 207/99) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Director, Indian Institute of Pulses Research, Kalyanpur, Kanpur and their

workman, which was received by the Central Government on 06/02/2014.

[No. L-42012/82/99-IR (DU),
No. L-42012/81/99-IR (DU),
No. L-42012/70/99-IR (DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

I.D. Nos. 205/99, 206/99 and 207/99

Reference Nos.—

L-42012/82/99-IR (DU) dated 11.08.99.
L-42012/81/99-IR (DU) dated 11.08.99.
L-42012/70/99-IR (DU) dated 11.08.99.

Industrial Dispute between—

1. Ram Shanker C/o Sri Rajendra Prasad Shukla, 115/193 A-2, Maswanpur, Kanpur.
2. Sri Ramesh Kumar C/o Sri Rajendra Prasad Shukla, 115/193 A-2, Maswanpur, Kanpur.
3. Sri Ajai C/o Sri Rajendra Prasad Shukla, 115/193 A-2, Maswanpur, Kanpur.

And

The Director,
Indian Institute of Pulses Research, Kalyanpur, G.T. Road,
Kanpur.

AWARD

1. Central Govt. Mol, New Delhi *vide* above reference no. has referred the following dispute for adjudication to this tribunal—

2. Whether the action of the Director Indian Institute of Pulse Research, Kalyanpur, Kanpur, in terminating the service of—

- a. Sri Ram Shanker
- b. Sri Ramesh Kumar
- c. Sri Ajai

is legal and justified? If not to what relief the workman is entitled?

3. Brief facts are—

4. These are the three I.D. Cases being numbered as 205/99, 206/99 and 207/99, All these three cases have been consolidated *vide* order dated 26.05.04 and I.D. No. 205/99 has been made as leading case wherein evidence has been recorded for all the three cases considering it a leading case.

5. Because all the cases are based on almost similar facts and common question of law is involved so in my view I am reproducing the facts of I.D. no. 205/99. All the three cases belongs to termination like termination is legal justified or not.

6. In the case of Ram Shankar it has been alleged that he was employed on 1.1.90 as a casual labour for the permanent work by the Director of the opposite party. He was being paid Rs. 2127/- per month before his termination which was oral in nature. It is alleged that the work against which the applicant was engaged was of permanent nature which is there under the opposite party. It is also stated that the opposite party had not paid the claimant the wages of regular employee. He had worked continuously for more than 240 days preceding 12 months from the date of his termination. It is also alleged that the opposite party without any reason and without complying with the mandatory provisions of the Industrial Disputes Act, 1947 like section 25F has terminated the services of the applicant.

7. Therefore it has been prayed that the workman is entitled to be reinstated in the service of the opposite party with full back wages and all consequential benefits.

8. Opposite party has filed reply wherein the entire claim of the workman has been refuted by them on the ground that there never existed any relationship of employer and employee between the management and the workman, these workmen had never been engaged either temporarily or permanent, therefore, there was no need for compliance of section 25F of the Act as the opposite party had never terminated the services of the applicant. The work under the opposite party was being taken through the contractor. The work of the opposite party against which it is alleged that the applicant was engaged was seasonal one and the licensed contractor had provided the services of labour for the work of Nirai, Guarai etc.

9. Therefore, it has been stated by the opposite party that since the workmen were never in the employment of the opposite party therefore, they are not entitled for any relief as claimed by them.

10. Rejoinder has also been filed but nothing new has been stated therein.

11. The claimant has moved an application for summoning certain records photocopies which were enclosed with the application.

12. This application was disposed of on merits by my learned predecessor *vide* order dated 09.07.03, where in the prayer of the claimants were not considered as the application was also not supported by any affidavit.

13. Opposite party has also filed certain paper *vide* list paper no. 12/1-3. These are the photocopies of the license of the contractor issued by the ALCC Kanpur dated 13.05.93 onwards and photocopies of certain letters issued by the desk officer.

14. Both the parties have adduced oral evidence. Claimant has adduced himself as WW1 whereas opposite party has produced Sri A.K. Saxena as M.W.1 who is an officer of the establishment.

15. I have examined the oral as well as documentary evidence of both the parties at length. M.W. 1 Sri Saxena has specifically stated on oath that regarding these claimants there had been no relationship of master and servant. They had never been employed or engaged as a casual labour temporary or on permanent basis directly by the opposite party. It is also stated on oath that the work which was being taken from the contractor like Anand Enterprise and others who are the registered contractor was of seasonal nature.

16. The statement of the management witness is un-rebutted because after giving sufficient opportunity to cross the witness the claimant has not cross examined him. Therefore, in such circumstances his statement which is on oath cannot be discarded.

17. Moreover I have examined the statement of W.W. 1. In the cross examination he stated that he has moved a application to the opposite party to be taken on employment, but no such application has been filed. Further he stated that his name was summoned from the employment exchange but no such documentary proof has been filed which was in the possession of the workman himself. This could be the best piece of evidence which has been withheld by the claimant.

18. As such there is no cogent documentary or oral evidence in favor of the claimant from which it can be inferred that there had been any relationship of employer and employee between the disputants.

19. Therefore the evidence of the workman does not inspire confidence and is liable to be discarded.

20. Therefore the workman has failed to establish that they have been engaged or employed by the opposite party on 1.1.90 and their services have been terminated on 30.05.98. They have also failed to establish that they had worked for more than 240 days or more before termination of their services.

21. It is also pertinent to mention that in all the three references there is no date of termination and therefore, the reference is also vague on this point.

22. Accordingly it is held that none of the workman is entitled to any relief and the references are bound to be decided against them and in favor of the opposite party.

23. Let a copy of this award be placed on the record of each connected case and also two photocopies of the award be sent to the Mol New Delhi for its publication.

RAM PARKASH, Presiding Officer

नई दिल्ली, 14 फरवरी, 2014

का०आ० 859.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एतद्वारा जनरल मेनेजर, नेशनल थर्मल पॉवर कारपोरेशन सिंगरौली सुपर थर्मल पॉवर स्टेशन सोनभद्र के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 16/2012) प्रकाशित करती है जो केन्द्रीय सरकार को 06/02/2014 को प्राप्त हुआ था।

[सं० एल-42011/92/2011-आई आर(डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 859.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. 16/2012) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The General Manager, NTPC, Singrauli Super Thermal Power Station, Sonbhadra and their workman, which was received by the Central Government on 06/02/2014.

[No. L-42011/92/2011-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

I.D. Nos. 16/12

President,
General Secretary
Pariyojna Shramik Sanghtahan,
1-A/59 Vidut Vihar Colony,
P.O. Shakti Nagar
Sonbhadra

AND

The General Manager NTPC,
Singrauli Super Thermal Power Station,
P.O. Shakti Nagar,
Sonbhadra.

AWARD

1. Central Govt. Mol, New Delhi vide above reference no. L-42011/92/2011-IR (DU) dated 03.02.2012 has referred the following dispute for adjudication to this tribunal—

2. Whether the action of the management of General Manager NTPC Singrauli Super Thermal Power Station PO Shakti Nagar, District Sonbhadra, in not correcting the

date of birth of Sri D N Mishra employee no. 012221 as 09.11.58 is just fair and legal? What relief the union/workman is entitled to?

3. After receipt of the reference order as above several notices were issued by the tribunal to both the parties, but none has appeared from the side of the claimant nor there any statement of claim.

4. None appeared from the side of the management. On few occasion worker's side put their appearance but have not filed any claim statement in support of their claim.

5. It therefore, from the circumstances of the case appears that the Union or the workman is not interested in prosecuting its case. As such the tribunal is of the confirm opinion that it is a case in which neither there is any statement of claim nor the claimant is interested in prosecuting his case, therefore, the case is bound to be decided against the union and workman for want of pleadings and proof.

6. Accordingly it is held that the workman/union is not entitled for any relief pursuant to the present reference order.

Dated : 31.7.2013

RAM PARKASH, Presiding Officer

नई दिल्ली, 14 फरवरी, 2014

का०आ० 860.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एतद्वारा यूनियन ऑफ इंडिया (सेक्रेटरी, मिनिस्ट्री ऑफ डिफेन्स) के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 39/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 06/02/2014 को प्राप्त हुआ था।

[सं० एल-42025/03/2014-आई आर(डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 860.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. 39/2011) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Union of India (Secretary, Ministry of Defence) and their workman, which was received by the Central Government on 06/02/2014.

[No.L-42025/03/2014-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR.

Industrial Dispute No. 39 of 2011

Ram Nath,
Son of Late Gajju Lal,
117/37, Puran Basti,
Kakadeo,
Kanpur

AND

Union of India,
Through Secretary,
Ministry of Defence,
Government of India,
And others

AWARD

Brief facts are—

1. The claimant Sri Ram Nath has filed a statement of claim under the amended provision of the Act under Section 2A read with sub section 2 of the Act against Union of India through Secretary GoI, and the General Manager, Ordnance Parachute Factory Kanpur, making a prayer that the impugned order of punishment dated 9/4/83 passed by the opposite party No. 2 be quashed and set aside and consequential relief be given to him.

2. After exchange of pleadings and the evidence adduced by the claimant himself as W.W.1, the claimant himself along with his AR Sri Abhishal Srivastava prayed before the tribunal on 28.2.3 that they do not want to press this case.

3. In this respect they have also made an endorsement for not pressing the case in the order sheet.

4. Therefore, I have heard and considered all the aspect of the case. In such circumstances there is no need to repeat the pleadings of the parties.

5. Hence in lieu of, as the claim is not pressed therefore, the claim is decided against the claimant as withdrawn as not pressed.

6. Therefore, the case is decided accordingly in the above terms.

Dt. 1.5.2013

RAM PARKASH, Presiding Officer

नई दिल्ली, 14 फरवरी, 2014

का०आ० 861.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एतद्वारा जनरल मेनेजर, नेशनल थर्मल पावर कारपोरेशन, रिहंद पावर प्रोजेक्ट, सोनभद्र

के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद के केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 03/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 06/02/2014 को प्राप्त हुआ था।

[सं एल-42012/166/2010-आई आर(डीयू)]
पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 14th February, 2014

S.O. 861.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. 03/2011) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The General Manager, NTPC Rihand Power Project, Sonbhadra and their workmen, which was received by the Central Government on 06/02/2014.

[No.L-42012/166/2010-IR(DU)]
P.K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE SRI RAM PARKASH, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, KANPUR**

Industrial Dispute No. 03 of 2011

BETWEEN—

Sri Shiv Bhajan Pal S/o late Sri Jadunandan,
Village & Post Bijpur,
Tehsil Dundhi.
Sonbhadra (U.P.)

AND

The General Manager,
NTPC Rihand Power Project,
Rihand Nagar,
Sonbhadra (UP)

AWARD

1. Central Government, Mol, New Delhi vide notification no. L-42012/166/2010 IR-DU dated 14.02.2011 has referred the following dispute for adjudication—

2. Whether the action of the management in granting voluntary retirement scheme to Sri Shiv Bhajan Pal, Sr. Mazdoor NTPC Rihand Power Project, Rihand District Sonbhadra with effect from 12.03.2005 is legal and justified? If not to what relief the workman is entitled to?

3. Brief facts of the case are—

4. It is alleged by the applicant that he is a member of Scheduled Tribe Community and he was appointed by the opposite party on 31.07.84 at the post of Shramik. It is

further alleged by the workman that on account of his continued service under the opposite party he was promoted at the post of Senior Shramik in the year 1986. It is alleged that the work and conduct of the applicant remained ever appreciable. He has further alleged that for the construction of his house he used loan facility from the bank under the guarantee of Sri Prahlad Yadav and Prabhat Kumar Pandey, but he could not be facilitated with the loan facility by the bank and the bank deducted the amount of alleged loan, which has resulted the applicant under a depressing situation. He approached the senior officers who had advised him that it will be better to avail housing loan facility from the opposite party and the amount so received by him could be deposited before the bank to get rid off from bank loan. It is also alleged by the workman that believing the assurance of Sri Prabhat Pandey, he approached before the management and during the course of negotiations he was asked to sign certain plain papers for obtaining housing loan from the opposite party. It is further alleged that on 13.03.2005 he was not allowed to enter in the premises of the management and he was told by the officials of the opposite party that he had taken voluntarily retirement from the company. He had represented the matter before the higher authorities on the issue that he had never sought any retirement from the service but all in vain.

5. The claimant has thus prayed that the action of the opposite party is illegal and unjustified and declaring the action to be against the rules of justice he should be reinstated in the service with full back wages and with all consequential benefits.

6. The claimant along with his claim has also filed photocopies of documents paper no. 4/6-4/14.

7. The opposite party has filed a detailed reply against the claim statement of the workman denying all the allegations. It has been alleged by the opposite party that whether the workman has availed any housing loan facility from the bank by creating guarantor S/Sri Prahlad Yadav and Sri Prabhat Kumar Pandey. It is further alleged by the opposite party that for availing of housing loan facility by the employees of the opposite party there is a definite procedure. The applicant was fully aware of the procedure to avail housing loan facility because he had already applied for housing loan facility before the opposite party but as the formalities for availing the loan facilities could not be completed he was not allowed the loan facility by the opposite party.

8. It is absolutely wrong to allege by the applicant that he is an illiterate person and he was forced to sign blank papers for availing loan facility because he is class VIII pass and he has signed the papers after understanding the contents of the formats.

9. It is further alleged by the opposite party that the applicant has signed his retirement papers after fully

understanding them and he has also rightly taken the retirement benefits from the opposite party through his account. Under the facts and circumstances of the case there is neither any illegality nor unjustified. Therefore the workman is not entitled for any relief as claimed by him.

10. Workman has filed rejoinder but nothing has been alleged new therein. He has also filed photocopy of certain documents paper no. 8/6-8.

11. Workman has also filed photocopies of 15 documents vide list dated 17.10.2011.

12. Vide application dated 05.07.2012 the opposite party has filed original documents paper no. 11/2-7. Again management has filed documents vide list dated 23.08.2011 which are in the nature of photocopies.

13. Whereas the workman has produced himself as W.W.1 as witness the opposite party has examined Sri Ramesh Prasad Singh as M.W.I.

14. I have heard the arguments of the parties in details and have also perused the evidence led by the parties.

15. The short question in this case to be decided is whether the workman Sri Shiv Bhajan Pal Senior Mazdoor tendered his resignation seeking the retirement under Voluntary Retirement Scheme or his resignation was obtained under some misrepresentation of facts.

16. W/W.1 in his statement has stated that he is an illiterate person and used to put thumb impression. He stated that he had borrowed some loan from the State Bank of India wherein Sri Prabhat Kumar Pandey and Sri Prahlad Yadav who had been his colleagues were the guarantor. When he could not pay the borrowed amount the bank started some coercive process against them. At this time Prabhat Kumar Pandey asked him as you not pay the loan you could borrow housing loan from the department. He took to him in the office of NTPC and asked him to sign on 8-10 blank papers and some half written papers. These were obtained under misrepresentation of fact where as no housing loan was given from the department.

17. On 13.03.2005 when he reached the office, he was informed by the gateman that his services have been terminated and his identity card was taken.

18. On the other hand the opposite produced M.W.1 Sri Ramesh Prasad Singh who is senior officer in HR department. He stated on oath that the workman has tendered these applications for seeking VRS on 25.01.2005 of his free will. After careful consideration his VRS application was accepted and he was granted VRS on 12.03.2005. While submitting application by the workman for VRS which is paper no. 11/2-3 which is an original application, there was no misrepresentation of facts, coercion or duress of any kind. He stated that initially the workman was primary school pass and later on he has

passed VIII class and he used to sign in Hindi. He stated that while accepting his VRS the workman has not raised any objection. While accepting the VRS the workman was paid his full and final payment on several dates *i.e.* 489991/- was paid on 09.04.05 vide cheque which was credited in his account. Gratuity amount of Rs. 152024 was paid by cheque which was credited in his account on 10.09.2005. Similarly other dues and payment like generation incentive, ex-gratia were paid to him, CPF amount of Rs. 2,42,745/- was also credited in his account and there nothing remained to be paid to him.

19. The opposite party has brought the original file of the workman. These papers are 10/3-48 and are Ext. 1 to 36. It is stated on oath by MW 1 that the workman has not applied for any kind of housing loan in the year 2004 or 2005. He had applied for loan sometime between 1990-1993 but that loan could not be materialized. I have examined these papers which are paper no. 11/4-8. The version of the claimant that he is totally illiterate does not appeal to reason. The management has also filed mark sheet of the workman regarding his education.

20. It is also contended by the workman that the aforesaid amount of full and final payment has not been paid to him and not credited to his account. But this contention does not find any support. As the opposite party has filed the statement of account of the concerned bank wherein the aforesaid amount has been credited in his account. It is also a fact that workman has not lodged any complainant against the officials Sri Prabhat Kumar Pandey and Prahlad Yadav. Had Sri Prabhat Kumar Pandey cheated him or misrepresented the facts and procured the signature of the workman alleging that the signatures are being taken for a housing loan, but in actual a form of VRS was filled. Then in that case it was a serious matter. The workman did not lodge any complaint to the authorities concerns or before the police. The complainant has filed 30 documents vide list 9/1. I have examined these documents. He stated that he has filed the photocopies of affidavit of certain persons like Ram Charan Shiv Narain etc., these are paper no. 9/12-15. I have examined these papers and these are the photocopies of affidavits and these persons have not been produced as a witness, therefore, these papers are not relevant at all.

21. I have carefully considered that facts of and circumstances of the case and find no truth in the claim of the workman. I also find that the workman has willingly tendered his resignation for obtaining VRS which was duly accepted by the opposite party. The evidence led by the management carries much weight and is believable. I also find that the present dispute has been raised much belatedly.

22. Therefore, under these circumstances it is held that there is no illegality in the action of the management and the reference is liable to be answered against the

workman. Consequently workman is not entitled for any relief.

RAM PARKASH, Presiding Officer
नई दिल्ली, 17 फरवरी, 2014

का०आ० 862.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जैट एअरवेज लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बेंगलूर के पंचाट (संदर्भ संख्या 68/2001, 69/2001 एवं 72/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17/02/2014 को प्राप्त हुआ था।

[सं० एल-11012/43/2001-आईआर (सी-I),
सं० एल-11012/44/2001-आईआर (सी-I),
सं० एल-11012/50/2001-आईआर (सी-I)]

एम०के० सिंह, अनुभाग अधिकारी

New Delhi, the 17th February, 2014

S.O. 862.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 68/2001, 69/2001 & 72/2001 of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore as shown in the Annexure, in the industrial dispute between the management of M/s. Jet Airways Limited, and their workmen, received by the Central Government on 17/02/2014.

[No. L-11012/43/2001-IR(C-I),
No. L-11012/44/2001-IR(C-I),
No. L-11012/50/2001-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

DATED : 6th JANUARY 2014

PRESENT : Shri S N NAVALGUND,
Presiding Officer

CR No. 68/2001

I Party	II Party
Sh. S. Ravi, No. 174, R R Road, J C Layout, Devasandra, R.K. Puram, BANGALORE-560 036	The Area Manager, Jet Airways (India) Ltd., Unity Building J C Road, BANGALORE-560 002.

C.R. NO. 69/2001

I Party	II Party
Sh. Chikkamari, C/o S Ravi, No. 174, R R Road, J C Layout, Devasandra, R K Puram, BANGALORE-560 036.	The Area Manager, Jet Airways (India) Ltd., Unity Building, J C Road, BANGALORE-560 002.

C R NO. 72/2001

I Party
Sh. Sarvama Kumar,
C/o S Ravi,
No. 174, R R Road,
J C Layout, ,
Devasandra, R.K. Puram
BANGALORE-560 036.

II Party
The Area Manager,
Jet Airways (India) Ltd.,
Unity Building, J.C. Road,
BANGALORE-560 002.

Appearances:

I Party : Shri K V Sathyanarayana
Advocate

II Party : Smt. K. Subha Ananthi
Advocate

COMMON AWARD

1. The Central Government vide order Nos. L-11012/43/2001-IR(C-I) dated 27.09.2001, L-11012/44/2001-IR(C-I) dated 27.09.2001 and L-11012/50/2001-IR(C-I) dated 27.09.2001 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made these references for adjudication with the following schedules:

SCHEDULE (C R 68/2001)

"Whether the action of the management of M/s. Jet Airways (India) Ltd. in not treating Shri S Ravi as regular employee of the establishment and terminating his services w.e.f. 28.02.1997 is just, fair and legal? If not, to what relief is the said workman entitled?"

SCHEDULE (C R 69/2001)

"Whether the action of the management of M/s. Jet Airways (India) Ltd. in not treating Shri Chikkamari as regular employee of the establishment and terminating his services w.e.f. 28.02.1997 is just, fair and legal? If not, to what relief is the said workman entitled?"

SCHEDULE (C R 72/2001)

"Whether the action of the management of M/s. Jet Airways (India) Ltd. in not treating Shri Sarvana as regular employee of the establishment and terminating his services w.e.f. 28.02.1997 is just, fair and legal? If not, to what relief is the said workman entitled?"

2. Since the reference schedule, claim of the I Party and contention of the II Party are similar in all the three references and actually in C R 69/2001 and C R 72/2001 the cross-examination made to management witnesses in C R 68/2001 to MW 1 and MW 2 have been adopted and common written arguments are filed by the learned advocates appearing for both sides in C R 68/2001 only, I have taken up for passing common award in all the three references.

3. On receipt of the references from the ministry while registering them in C R 68, 69 and 72/2001 when notices were issued the I party and II Party entered their appearances through their respective common advocate in all the three references and filed their claim statement and counter statement.

4. The I Party in all the three references claim that they were appointed by the II Party management as Loader-cum-Driver and that their wages were also paid by the II Party management only but the II Party with an ulterior motive registered their establishment with Assistant Labour Commissioner (C), Bangalore to employ contract labour for the work of loading and unloading at Baggage at Airport on 29.05.1996 and that terminated their services w.e.f. 28.02.1997. It is further asserted the I Party in CR 68 and 72/2001 were appointed on 25.05.1993 whereas I Party in CR 69/2001 on 28.10.1993 and that all of them have been terminated w.e.f. 28.02.1997. In all the three claim statements it is asserted that all of them worked sincerely without any blemish as such termination of their services tantamounts to retrenchment as defined under Section 2(oo) of the ID Act as such the non-compliance of the mandatory provisions of Section 25(F) of the ID Act makes their termination illegal and they are deemed to be continued in service. With these allegations it is prayed to pass an award in their favour holding that the II Party is not justified in not treating them as their regular employees and to direct the management to reinstate them and to regularize their services with continuity of service, full backwages and consequential benefits. *Inter alia*, in the counter statements filed for the II Party it is contended that it being an Airline having branches all over the country had engaged the contractor Sh. B. Bhasker, Proprietor, Sairam Agencies for loading and unloading of the Baggages and initially the said contractor had provided 19 loaders and as a precaution in the year 1996 it opted for registration from ALC(C) for engaging contract labour and in the year 1997 Sh. Bhaskaran brought to an end to his contract and they have learnt all his employees have been terminated by payment of compensation, notice pay and thereby following due process of law and that thereafter M/s. Vishwas Enterprises and M/s. Takeoff Services were the contractors carrying on the same work by engaging loaders in the areas of Loading and Unloading and that they have been supervising their workers and are paying them the minimum wages. Thus, it is contended that the I party in all the three were being the labour under the contractor M/s. Bhaskaran there is no relationship of Employees and Employers between them and the II Party as such they have no right or locus standi to ask for their reinstatement, regularisation etc. as prayed for by them.

5. After completion of the pleading having regard to the contention of the II Party there exists no relationship of employee and employer an issue was raised as to whether there exists Employee and Employer Relationship between

I Party and II Party with further direction that the said issue will be taken up along with merits reference points.

6. In all the three references the I Party workman have filed their affidavits reiterating their respective claim statements and examined themselves on oath as WW 1. The I Party in CR 68/2001 got exhibited ID Card/Daily Permit issued to him by Bureau of Civil Aviation Security and Certificate issued by Airport Manager and Area Sales Manager as Ex. W-1 and Ex. W-2 and in his cross-examination counsel for II Party got marked the vakalat of the I Party as Ex. W-3 and his signature as Ex. W-3(a). I Party in CR 69/2001 got exhibited ID Card/Daily Permit issued to by Bureau of Civil Aviation Security and Certificate issued by Airport Manager and Area Sales Manager as Ex. W-1 and Ex. W-2 and during his cross-examination counsel for II Party got exhibited vakalat executed by him as Ex. M-1 and his signature as Ex. M-1(a) and I Party in CR 72/2001 got exhibited ID Card/Daily Permit issued to by Bureau of Civil Aviation Security and Certificate issued by Airport Manager and Area Sales Manager as Ex. W-1 and Ex. W-2 and during his cross-examination counsel for II Party got exhibited vakalat executed by the I Party as Ex. M-1 and his signature as Ex. M-1(a). *Inter alia*, the learned advocate appearing for the II Party while filing the affidavits of Sh. Santosh Balakrishna Chalke, General Manager (HR) and Smt. Sadhana, Manager (HR) examined them on oath as MW 1 and MW 2 and got exhibited Agreement dated 01.09.1995 between II Party and M/s. Sairam Agencies; letter dated 28.11.1996 from M/s. Sairam Agencies requesting to terminate the agency; letter dated 02.12.1996 requesting M/s. Sairam Agencies to continue the contract until alternate arrangements; letter dated 28.02.1997 of M/s. Sairam Agencies Informing the II Party of withdrawal of loaders; letter dated 05.03.1996 from Engineering and General Worker's Union intimating about formation of Union to the II Party; Reply letter dated 08.08.1996 to the RLC(C), Bangalore to their notice dated 02.08.1996; true copy of the minutes of meeting held before RLC(C), Bangalore dated 09.08.1996; copy of letter dated 09.08.1996 of the I Party Union placing their Charter of Demands before the II Party; copy of the letter dated 09.10.1996 of M/s. Sairam Agencies addressed to I Party Union; copy of letter dated 06.03.1997 of I Party Union to RLC(C), Bangalore regarding Non-payment of wages to workmen; Bill submitted by the Sairam Agencies dated 02.01.1996; copy of Agreement dated 09.09.1993 between II Party and M/s. Sairam Agencies; copy of notice by M/s. Sairam Agencies regarding permanent closure of business; letter from Sh. S.S. Gupta, Under Secretary to Government of India, New Delhi declining to refer the dispute in respect of FOC No. 8(1) 2005-B3 dated 29.07.2005; copy of the Registration Certificate issued by ALC(C), Bangalore dated 29.05.1996 for contract labour as Ex M-1 to Ex M-15 respectively in all the three references and the learned counsel appearing for the I Party who cross-examined them in C R 68/2001 adopted the same cross-examination by

filing Memos in CR 69/2001 and CR 72/2001. After close of the evidence the learned advocates appearing for both sides have filed their written arguments. The I Party counsel in support of his arguments cited the decision reported in 2003 II LLJ Page 92—Angarpathra Colliery of Bharat Coking Coal Limited vs. Presiding Officer, Central Government Industrial Tribunal No. (2), whereas, the learned advocate appearing for the II Party cited the following decisions:

1. 2009 4 LLJ Page 31—International Airport Authority of India vs. International Air Cargo Workers' Union.

2. 1995 (5) SCC Page 27—Gujarat Electricity Board, Thermal Power Station, Ukai, Gujarat vs. Hindu Mazdoor Sabha and Others.

3. 2006 (12) SCC Page 233—Steel Authority of India Ltd., Vs. Union of India and Others.

4. 2004 (3) SCC Page 514—Workmen of Neelgiri Co-op., Marketing Society Ltd., Vs. State of Tamil Nadu and Others.

5. 2001 (7) SCC Page 1—Steel Authority of India Ltd. and Others vs. National Union Water Front Workers and Others.

6. 1958 (2) LLJ Page 259—Union of India vs. T.R. Verma

7. 2006 (1) SCC 106—R. M. Yellatti Vs. Assistant Executive Engineer.

8. 2003 (8) SCC 752—RVE Venkatachala Gounder vs. Arulmigu Vishweswaraswami & VP Temple and Another.

7. In view of the facts narrated by me above the points that arises for my consideration are

Point No. 1: Whether I Party in all the cases proved that they were engaged directly by the II Party as Loader-cum-Driver and that contractors were camouflage to deprive them of their bonafide and rightful claims?

Points No. 2: What Order/Award?

8. On appreciation of pleadings, oral and documentary evidence brought on record by both the sides in the light of the arguments put forward by the learned advocates my findings on Point No.1 is in the Negative and Point No. 2 as per final Order/Award for the following.

REASONS

9. The learned advocate appearing for the I Party while referring to the documents at Ex. W-1 which are daily permit in respect of the I Party's and Ex. W-2 the certificates issued by the Airport Manager and Area Sales Manager certifying that they have been working in their organization as Loader urged that they were the workmen directly under the II Party but absolutely there is no logic or reason behind such a argument. Because the daily permit are required to

be issued to a workman for entry in the Airport premises whether he is direct employee of a Airways or contractor's labour and the certificate by Airport Manager and Area Sales Manager is only to the effect that they were working as Loaders in the Airport but not as specific Loaders under the II Party management. Absolutely, I find no direct or circumstantial evidence to say that II Party for name sake introducing the contractor for the service of loading. Absolutely there is no iota of evidence the first parties being directly appointed or engaged as loaders-cum-drivers by the II Party or the II Party having supervised their work. Under the circumstances, their claim that they were to be treated as regular employees of the II Party establishment and regularize their service is devoid of any merits. In the result, I arrive at conclusion the action of the management of M/s Jet Airways (India) Ltd. in not treating Shri S. Ravi, Chikkamari and Shri Sarvana as their regular employees is just and legal and as they being found labours under the contractor engaged by the II Party the assertion of the first parties that they have been terminated from their services by the II Party is also bereft of any merits. In the result, I pass the following.

ORDER

The references are rejected holding that the first party in the respective references were never engaged directly by the II Party as Loaders-cum-Driver and have not terminated their services and that their action in not treating them as regular employees of their establishment is just and legal and that they are not entitle for any relief.

(Dictated to U.D.C., transcribed by him, corrected and signed by me on 6th January, 2014)

S. N. NAVALGUND, Presiding Officer

नई दिल्ली, 17 फरवरी, 2014

का०आ० 863.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 82 का 2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17/02/2014 को प्राप्त हुआ था।

[सं० एल-20012/31/2004-आई आर (सीएम-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 17th February, 2014

S.O. 863.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. No. 82/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL, and

their workmen, received by the Central Government on 17/02/2014.

[No. L-20012/31/2004-IR(CM-I)]
M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

**In the matter of reference U/S 10(1) (d) (2A) of I.D. Act,
1947**

Ref. No. 82 of 2004

Employer in relation to the management of Kusunda Area of M/s BCCL.

AND

Their workmen

Present : SRI RANJAN KUMAR SARAN, Presiding Officer

Appearances :

For the employers:— Sri Sri S.N. Ghosh, Advocate

For the Workman:— None

State:— Jharkhand Industry:— Coal.

Dated 19.8.2013

AWARD

By order No. L-20012/31/2004-IR (CM-I) dt. 26.7.2004 the Central Government in the Ministry of Labour has, in exercise of powers conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Kusunda Area of M/s. B.C.C.L in not giving employment to Smt. Ratho Devi Widowed daughter-in-law of late Etwari Kamin as per NCWA is justified? If not, to what relief the applicant is entitled to?"

2. After receipt of the reference, both parties are noticed, appeared, filed their respective claim statements. But since 2004, till today none particularly the workman or its sponsoring union appeared or put his claim. Therefore it is felt, that is no dispute between the parties. Hence, a No Dispute Award is passed. Communicate to the Ministry.

R.K. SARAN, Presiding Officer

नई दिल्ली, 17 फरवरी, 2014

का०आ० 864.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एतद्वारा हिंदुस्तान पेपर कारपोरेशन लिमिटेड, कोलकाता एंड नागालैंड पेपर और पल्प कंपनी लिमिटेड, नागालैंड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, गुवाहाटी के पंचाट

(संदर्भ संख्या 01/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08/02/2014 को प्राप्त हुआ था।

[सं० एल-42011/37/2011-आई आर(डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 17th February, 2014

S.O. 864.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID No. 01/2012) of the Central Government Industrial Tribunal/Labour Court, Guwahati now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Hindustan Paper Corporation Limited, Kolkata and Nagaland Paper & Pulp Company Limited, Nagaland and their workman, which was received by the Central Government on 08/02/2014.

[No. L-42011/37/2011-IR (DU)]

P. K. VENUGOPAL, Section Officer

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, GUWAHATI, ASSAM.

Present :

Shri L.C.Dey, M.A., LLB. Presiding Officer,
CGIT-cum- Labour Court, Guwahati,

Ref-Case No. 01 of 2012

In the matter of an Industrial Dispute between :-

The Workman represented by the General Secretary, NPPCL-
Nagaland

-Vrs-

The Management of Hindustan Paper Corporation Limited,
Kolkata and Nagaland Paper & Pulp Company Limited,
Nagaland

Date of Award: 27.12.13

AWARD

1. This Reference has been initiated on an Industrial Dispute between the Management of Hindustan Paper Corporation Limited, Kolkata and Nagaland Paper & Pulp Company Limited, Nagaland and their workman represented by the General Secretary, NPFCL, Nagaland for denial of enhancement of the ceiling on accumulation of Earned Leave for 300 days in service life with encashment benefit of the said workman by the Management which was referred by the Ministry of Labour, Government of India, New Delhi vide their order No. L-42011/37/2011-IR(DU) dated 12.10.2011. The Schedule of this Reference is as under.

SCHEDULE

"Whether the action of the management of Hindustan Paper Corporation Limited (HPCL) and the Nagaland Pulp & Paper Company Limited

(NPPCL) in denying the enhancement of the ceiling on accumulation of Earned Leave for 300 days in service life with encashment benefit in respect of the workmen of M/s. NPPCL in consonance to the Government Circular, is legal and justified? What relief the workmen under NPPCL are entitled to?"

2. Both the workers Union, Nagaland Pulp and Paper Company Limited (herein after called in short NPPCL) and the Management of Hindustan Paper Corporation Ltd. (in short HPCL, Kolkata) and the Managements of Nagaland Pulp and Paper Company Ltd. (in short NPPCL, Nagaland) appeared and submitted their respective claim Statement/written statements. Subsequently the reference has been taken up for disposal in the Lok Adalat held today.

3. The claim of the Workers Union of the NPPCL, Nagaland, in short, relates to the accumulation of privilege leave which is earned in a year @ 30 days. If the employee concerned cannot or does not avail thirty days privilege leave in a year his unavailed leave is accumulated in his account which he can avail subsequently. According to the Union the maximum ceiling limit of accumulated leave should be 300 days while the Management contended that the said ceiling limit should be 180 days. While the employees in the grade of Supervisory and above rank are entitled to accumulated unavailed privilege leave to the extent of 240 days whereas the Standing Order in force which regulate the affairs of the employees below the rank of Supervisor permits the accumulation to the extent of 180 days. Thus there is discrimination between the two Categories of employees for the purpose of accumulation of unavailed privilege leave. The Union also stated that prior to 1987 all categories of employees working in a public sector undertaking were allowed to avail 180 days of accumulation, and on 24.4.1987 the Bureau of Public Sector enterprises, Ministry of Industries, Government of India vide its memorandum No. 2(27)/85. BPE (LC) whereby all public sector undertakings were directed to allow the enhancement of ceiling on accumulation of earn leave to the extent of 240 days with effect from 1.7.87 and this enhancement will be applicable to the employees working in the grade of Supervisor and above. In the establishment of NPPCL, the employees working in unionized grade are regulated by their Standing Order in force under Industrial (Standing Order) Act, 1946 which stipulates with the maximum limit of accumulation of privilege leave of the employees working in the below the rank of Supervisor are entitled to have maximum limit of accumulation of privilege leave to the extent of 180 days and after issue of the Memorandum by the Bureau of Public Enterprises on 24.4.1987 approved the accumulation of earn leave for 240 days which was circulated on 31.8.1987 whereby it was informed that the said accumulation would be applied from 1.7.1986. Thus the aforesaid direction of the Bureau of Public Enterprises was not extended to the employees of NPPCL in the grade below the Supervisor for a considerable

time. Thereafter on 16.3.1993 the Management of NPPCL issued a circular whereby it was notified to all the employees that due to critical financial constraint in the Company it was decided to keep in abeyance of leave encashment benefits and leave travel concession. In the year 2000 the Management of NPPCL calculated the terminal benefit of workman. Late Kilangnukshi AQ, enior Watchman on the basis of 240 days of ceiling limit of privilege leave. But subsequently the Sr. Assistant (P & A) deducted the excess amount paid to Late AO and he was allowed to have leave encashment benefit to the extent of 180 days. Thus the Management has arbitrarily curtailed the benefit of leave encashment in breach of service rules besides violating Section 9A of the Industrial Dispute Act, 1947 and also deprived them from getting leave Travel Concession. Suddenly the Management of NPPCL, Nagaland arbitrarily decided to withdraw the revised rate of earned leave accumulation, only for the workers and to follow the leave rule strictly as provided in the certified Standing Order. On 22.11.2001 the Joint Labour Commissioner, Nagaland at Kohima requested the Management for implementing accumulation of earn leave of 240 days. In 2003 when the Chief Executive Officer, NPPCL, visited the workers Union met him and appraised the problem of the workers who in turn advised them to hold a meeting with local management. Accordingly the meeting was held on 24.8.2004 with the Senior Manager (HR & ES), NPPCL and other officers of the Management wherein the existing problem of the workers were discussed. On 22.1.2007 the Union and the representative to HPCL and NPPCL had discussed this matter along with others existing issues and in that meeting as per para-4 of minutes of meeting which deals with the leave encashment and accumulation of earn leave up to 240 days and it was decided that the issue would be referred to the Board of Directors of NPPCL for due consideration for grant of leave encashment and accumulation of earned leave upto 240 days. Meanwhile the Bureau of Public Enterprises issued another Office Memorandum dated 10.7.1997 whereby accumulation of earn leave were allowed to the extent of 300 days. The Union while persuade their case for accumulation of earn leave to the extent of 240 days had pointed out that the management of HPCL through its General Manager vide their letter dated 12.2.2007 that the ceiling limit of accumulation of earn leave had been further extended to 300 days. On 11.9.2007 the Management informed the Union that the NPPCL Board approved the proposal for accumulation of earn leave from the existing ceiling of 180 days to 240 days and that no leave encashment would be allowed during the continuance of service and the encashment would be allowed only on cession of employment but the said enhancement ceiling limit of accumulation of earned leave to the extent of 240 days was not implemented to the workers. The Union requested the Management to implement the enhancement ceiling limit of accumulation of earn leave. Thereafter the Union having no other alternative raised an Industrial

Dispute before the Assistant Labour Commissioner (C), but the dispute could not be settled up there. Therefore, the workers Union prayed for passing award directing the Management for enhancement of ceiling of earn leave to the extent of 300 days and/or pass any other order or awards as deem fit and proper.

4. Both the Managements of NPPCL, Nagaland and HPCL, Kolkata although submitted their Written Statements separately, the pleas of the W.S submitted by both the managements are same and common. The HPCL is a holding Company incorporated under the Companies Act, 1956, being a Body Corporate having its perpetual succession and common seal, and the NPPCL is subsidiary of the Hindustan Paper Company Ltd. but the said companies are registered separately having two different legal entity. The Management of both the HPCL and NPPCL stated that the Bureau of Public Enterprises vide their Circular No-2/(27)/85-BPE(L C) dated 24.8.1987 extended the accumulation of earn leave for the executive and supervisor upto 240 days w.e.f. 01.07.1986. However, the leave rule in respect of unionized staff/ workman is governed by staff regulation. Thereafter the Board of Directors of HPCL in a meeting held on 28.7.87 approved the accumulation of earn leave for 240 days. But the NPPCL has not passed any Board resolution extending the accumulation of earn leave to 240 days and hence, the resolution of the Board of HPCL can not be automatically made applicable to NPPCL. It is averred by the Management that the production of NPIPCL was completely stopped in October, 1992 and due to non-operation and un economic production activities and it was referred to BIFR, meanwhile the employees of the NPPCL were getting the salary from HPC's fund.

Subsequently the workers Union on 17.11.2000 made a communication to the Chief Executive Officer, NPPCL stating that the Management of NPPCL has extended leave encashment benefit to the officer and supervisor while the workmen were deprived. In the mean time the Ministry of Heavy Industries and Public Enterprises, Department of Public Enterprises vide their Office Memorandum dated 5.8.05 enhanced the ceiling accumulation of earn leave to 300 days to the employees of CPSE. Again on 22.1.2007 the workers Union and the Management of NPPCL had discussed on the leave encashment and accumulation of earn leave upto 240 days along with other issues and the matter was referred to the Board of Directors of NPPCL for due consideration of leave encashment and accumulation of earn leave upto 240 days. Accordingly the Board in its meeting held on 30.5.2007 decided to allow the accumulation of earn leave upto 240 days for all NPPCL but no encashment would be allowed during the continuance of service and this would be paid at the time of cession of the employment but this resolution could not be implemented as it was not incorporated in the Standing Order since the workmen are governed by the Certified Standing Order. Meanwhile the BIFR sanctioned the Rehabilitation Scheme

vide its order dated 27.6.2007 which envisages 1997 pay structure for the employees of NPPCL and the did pay structure was implemented with effect from 27.6.2007 after getting approval from the competent authority and after signing the memorandum of settlement with the workers Union of NPPCL in presence of the Joint Labour Commissioner—State Conciliation Officer, Nagaland. On the implementation of 1997 pay structure the matter of enhancement of ceiling on accumulation of earn leave for 300 days in service life with encashment benefit was taken up with the Board of Directors of NPPCL. In its meeting held on 30.3.09 the Board of Directors decided that no facility need to be considered which is not part of the Memorandum of Understanding, no new facility is to be considered till separation of 100 employees under VRS and the commencement of the project activities. As the project activities are yet to start as Revised Detailed Report in NPPCL is under consideration of Government of India, till such time no new facility can be considered.

5. During the pendency of adjudication, this reference has been taken up before The Lok Adalat held today for disposal by amicable settlement. Upon sincere and devoted participation of the learned conciliators and the positive approach of the representatives from both the management of NPPCL and HPC, Kolkata as well as Office bearers of the workers Union, the dispute has been settled up amicably as per the terms and conditions arrived at in the conciliation proceeding as mentioned in the Memorandum of Settlement duly signed and authenticated by both the parties, their learned Counsels and the learned conciliators, in course of Settlement both the management of NPPCL and HPCL and the workers Union NPPCL, Mukachung, Nagaland agreed that the accumulation of earn leave of the workers of the NPPCL will be 240 days during the service life.

6. In view of the above discussion this reference is disposed of as a compromise. The Memorandum of Settlement prepared for the purpose will form a part of this record as well as the award.

7. Send the Award along with a copy of the Memorandum of Settlement to the Ministry according to the law.

Given under my hand and seal of this Court on this 27th day of December, 2013, at Guwahati.

L.C.Dey, Presiding Officer

**BEFORE THE LOKADALAT IN RELATION TO THE
CGIT-CUM-LABOUR COURT, KENDRIYASHRAM
SADAN, BIRUBARI, GUWAHATI**

Date: 27.12.2013.

Ref Case/ Case No. : 01/12

The management of HPC Ltd.
Kolkata & Nagaland

-Vs-

Their Workman represented
by Gen. Secy. NPPCL.

May it please your honour,

We the parties above named have arrived at a compromise/ conciliation/ settlement in the above Referred Reference Case/Misc Case/dispute as per terms and conditions mentioned below. No coercion or force/ temptation/influence has been made to any of the parties to an iver at the compromise/conciliation.

We therefore request to record the compromise/ conciliation/settlement made before the Lok Adalat and pass order/award accordingly today itself.

Terms of compromise/conciliation.

Both the Management and union agreed that accumulation of earned leave will be 240 days.

	President Workers' Union : N.P.P.C. Ltd. P.O: Paper Nagar, Distt.: Mokokchung (Nagaland) Pin : 798623
-Sd.- illegible	

Signature of Management/ Opposite Party/ Respondent.	Signature of Union / Workman / Petitioner/ Applicant.
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-Sd.- illegible	-Sd.- illegible
Signature of Advocate for the Management/ Opposite Party /Respondent.	Signature of Advocate for the Union/ Workman/Petitioner/ Applicant

-Sd.- illegible
Signature of conciliators.

Presiding Officer,
CGIT-Cum-Labour Court, Guwahati.

नई दिल्ली, 17 फरवरी, 2014

कांआ 865.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एअर इण्डिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं 2, नई दिल्ली के पंचाट (संदर्भ संख्या 44 का 2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 17/2/2014 को प्राप्त हुआ था।

[सं एल-11012/16/2008-आईआर (सीएम-1)]
एम के सिंह, अनुभाग अधिकारी

New Delhi, the 17th February, 2014

S.O. 865.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 44/2008) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure, in the industrial dispute between the management of M/s. Air India Limited, and their workmen, received by the Central Government on 17/02/2014.

[No. L-11012/16/2008-IR (CM-I)]
M. K. SINGH, Section Officer

ANNEXURE

CENTRAL-GOVERNMENT INDUSTRIAL-TRIBUNAL CUM-LABOUR COURT-II

Present:— Shri Harbansh Kumar Saxena

ID No. 44/2008

Sh. Suresh Kumar

Versus

Air India Limited

AWARD

The Central Government in the Ministry of Labour vide notification No L-11012/16/2008-(IR(CM-I)) dated 19/08/2008 referred the following Industrial Dispute to this tribunal for the adjudication:—

"(1) Whether the action of the Management Air India Limited (now NACL), New Delhi in dismissing Shri Suresh Kumar, Loader from the service w.e.f. 05.06.1998 is justified and legal? (ii) To what relief the workman concerned is entitled?"

On 3.10.08 reference was received in this tribunal. Which was register as ID No. 44/2008 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant filed claim statement on 12.9.08. Wherein he stated as follows:—

1. BRIEF FACTS: That the brief facts leading to the filing of the present claim petition are as under:—

(a) That the Indian Legislature enacted Industrial Employment (Standing Orders) Act, 1946 (hereinafter called 'S.O. Act, 1946' in short) i.e. a law on Terms & Conditions of Employment of the employees working in certain industrial establishments regulate industrial relations in defined industries as between workmen and employers. As per law therein 'Classification of Workmen' is made a statutory term in the industries as defined therein. The law also stipulated the Terms of Employment as Statutory one and the 'conditions of employment' both as statutorily or statutory imposed one. The Respondent, being engaged

in aviation industry is an industrial establishment for the purposes of the S.O. Act, 1946 to regulate and govern the service conditions of its employees.

(b) That since the inception of its business under the Air Corporation Act, 1953, the Respondent is employing persons in the cadre of "Casual employees" and by virtue of S.O. Act, 1946 and as such cadre of 'Casual employees' is a substantive and defined cadre in the respondent establishment.

(c) That loading/unloading work/services like in any industrial activity is a Non-technical unskilled service/work in the Respondent establishment.

(d) That on 10.4.1981, the Respondent management adopted a policy whereby the casual workers in any service carried on there in their establishment were given artificial breaks in service, wage cuts on days of absence, no leave etc.

(e) That such move in fact was deliberately exercised by the management to deprive the casual workers of the statutory benefit of "Continuous service" as defined u/s 25(b) of the Industrial Disputes Act, 1947 (in short I.D. Act, 1947) with malafide motives to terminate their services at their whim and fancies.

(f) That the Claimant was employed in the year 1984 by the Respondent in the services as 'Loader' in the classified substantive cadre of 'Casual employees' in the respondent establishment.

(g) That the general demand of casual employees for regulation of service conditions in the cadre of 'Casuals' against unfair trade practice like artificial break in service, wage cuts, leave etc. gained momentum in the year 1987 which led the representative body Air India Workers Union to demand enforcement of fundamental rights by way of filing Writ Petition No... 604 of 1987 before the Hon'ble Supreme Court of India.

(h) That on 27.8.1987 the Hon'ble Supreme Court directed the Central Government to refer the matter under demand for investigation & adjudication by the Central Government Labour Court-cum-Industrial Tribunal (in short CGIT) New Delhi.

(i) That on 23.9.1987, the Central Government referred the demands under dispute for adjudication to the CGIT, New Delhi, and the demands under dispute was registered as I.D. No. 99/87.

(j) That the name of the Claimant appeared under Sl. No. 56 of the Annexure 1 annexed therewith containing details of service of Air India workers to the proceedings before the CGIT New Delhi in ID. No. 99/87.

(k) That on 10.5.1990, the Respondent management brought the draft of proposal scheme of regularization of casual employee before the Tribunal and placed it on record of the file for the consideration and approval by the CGIT to be incorporated in the award as scheme framed by management for regularization in phased manner.

(l) That the matter under proposed draft scheme of regularization was considered and adjudicated by the CGIT in I.D. No. 99/87 and the Tribunal passed an award dated 4.3.1991 accordingly, whereby and whereunder the Claimant got an Existing Right under the law to claim the benefits arising under the said award dated 4.3.1991.

(m) That whereas the Industrial Tribunal (CGIT) observed no existing vacancies to recruit all the casual workmen at that stage and thus directed the Respondent management to implement the scheme and regularize the workmen in the proposed phased manner in order of seniority and interview. The Tribunal further directed the management that as and when any vacancy arise the eligible workmen out of the annexed list with the order/award shall be taken in the employment at that time subject to his medical fitness, and pay them the difference to wages and as per regular counterparts.

(n) That the award dated 4.3.1991 passed by the CGIT was published in the Gazette of India on 11.5.1991.

(o) That being aggrieved by the possible termination of services at the hands of respondent as fall out of the award not restraining the respondent against non-acceptance of other demands while some casual workers filed Special Leave Petition No. 14.42 of 1991, the Air India Workers Union challenged the clauses 3, 4 & 5 of the regularization scheme of the management as proposed in the proceedings and findings of the award passed by the CGIT dated 4.3.1991 by filing writ petition No. 3464/91 before the High Court of Delhi and subsequently against the order dated 12.11.1992 passed by the High Court of Delhi and subsequently against the order dated 12.11.1992 passed by the High Court of Delhi by Challenging the order dated 12.11.1992 in SLP No. 3609/92 titled Air India Workers Union V/s Presiding Officer, CGIT.

(p) That the Hon'ble Supreme Court passed the order dated 30.3.1992 finding no merit in the objections regarding clauses 3, 4 & 5 of the regulations scheme and disposed the matter under SLP No. 3609/92.

(q) That in the year 1994, the Union Legislature passed the Air Corporations (Transfer of Undertakings and

Repeal) Act, 1994 whereby the undertaking of Air India was vested in the company formed and registered under the Companies Act, 1956 and came to be known as Air India Ltd.

(r) That during the year 1997, while the Claimant was still working and waiting for regularization of his services in the cadre of Casual employees in terms of the award dated 4.3.1991 passed by the CGIT, the management of the Respondent with a malafide intention and illegally to the provisions of Sec. 9 of the I.D. Act, 1947 changed the service conditions of the claimant and put the claimant from the substantive cadre of 'Casual employees'.

(s) That novel way was devised by the Respondent with malafide intention and ulterior motives to cause termination of Claimant's employment on baseless and unjustified grounds contrary to the law and in utter disregard of the terms of the Award dated 1.3.1991 passed by the CGIT formed as binding settlement.

(t) That it is pertinent to mention that during the time the claimant has been working with the Respondent, the Respondent had granted regularisation to various employees in the list as annexed with the award dated 4.3.1991 in terms of the award without putting them on probation in the service.

(u) That the Claimant apprehending illegal designs at the hands of the Respondent management raised oral objections before the management against the act of putting him on probation in the non-technical unskilled job/ services as "Loader", instead of regularizing him in term of award date 4.3.91 in the cadre of 'casuals' with regularised service conditions and benefits.

(v) That on 28.11.1997, the Respondent, being an industrial establishment as defined under the S.O. Act, 1947 framed Standing Orders as certified under the Act of 1946 by the appropriate government, which governed the service condition of the employees employed in the respondent establishment.

(w) That on 5.6.1998, the Respondent management ultimately gave effect to their long cherished illegal design and caused termination of the Claimant's employment/ services w.e.f. 05.6.1998.

(x) That when the Claimant raised objections against such termination of his services, the management at the time of handing over the termination letter dated 05.6.1998 to the Claimant, the management orally informed the Claimant that since his employment in the probation was irregular hence terminated, however, the Claimant should wait and keep in contact every six month for his turn for regularization in service as per seniority and interview

whenever he would be called for such employment in accordance with the terms of the Award dated 4.3.1991 as passed by the CGIT.

(y) That on 17.9.2001 the Claimant received a letter dated 17.9.2001 by speed post from the management whereby the claimant was asked to deposit some money to the management allegedly being excessive paid to the Claimant, to which the Claimant immediately explained to the management about the clear status of the account subsequent to the award dated 4.3.1991.

(z) That during the year from 1998 till 2006, since the Claimant was asked to keep on contacting the management every six months, and every time the claimant met the management persons, the management in the year December, 2006 informed the Claimant that the Claimant's turn is round the corner and any time in the next quarter he may be called for interview for medical check up for the grant of regular service as 'Loader' in terms of the award dated 4.3.1991.

(aa) That since the Claimant did not receive any intimation from the management, the Claimant enquired about his turn for regularisation in term of the award and met on 24.5.2007 the persons in the Personnel department and other officials of the management whereto the Claimant was reprimanded by the persons in the management for disturbing them and warned not to contract them in future again as his services have already been terminated so far back in 1998 on the grounds as mentioned therein through the letter of termination dated 5.6.1998, and as he has no right in law to seek any regularization in terms of the award dated 4.3.1991.

(bb) That without prejudice to the fact that the Respondent illegally changed the service conditions of the Claimant with malafide motive contrary to Sec. 9 of the Industrial Dispute Act, 1947, the order of appointment on probation as well the order of termination dated 5.6.1998 without holding due enquiry into the alleged shortcoming are absolutely Void Ab Initio.

(cc) That the Claimant had filed writ petition No. 4850/07 against such illegal termination of his services by the management wherein Hon'ble High Court as per the prayer of the Claimant's counsel permitted the claimant to raise an 'Industrial Dispute' into the matter of termination of his services vide High Court of Delhi order dated 9.7.07 passed by Hon'ble Justice Kailash Gambir, As such the claimant has filed the present claim statement against his illegal & wrongful termination and claim the termination of his service as amounting to "Retrenchment".

(dd) That since the management/respondent has not fulfilled the obligations under the Industrial Disputes

Act, 1947 as contemplated under Sec. 25-F of the I.D. Act, 1947, such retrenchment of the claimant amounts to illegal retrenchment of his service and thus the claimant is entitled to the grant of right of reinstatement in the services of the respondent management with retrospective effect from the date of illegal termination of his services.

(ee) That the delay in raising the present dispute is not attributable to the claimant in as much as the claimant was kept waiting only by the respondent management under assurance to act positive in terms of the award dated 4.3.1991 for the grant of regularization as and when claimant's turn comes in the List annexed with the award dated 4.3.1991 for the grant of right of regularization in service.

(ff) That since, the Claimant was illegally deprived of his employment in the 'Substantive Cadre of Casual Employees' in utter disregard of the his legal rights under the Industrial Disputes Act, 1947 and since the Claimant has been discriminated against other employees who have already been regularised in terms of the Award dated 4.3.1991 passed by the CGIT without any such formality as putting them on probation for judging their skill in a non technical unskilled work/service in the cadre of "casuals" working as "Loader" in the respondent establishment, the present claim petition has been filed by the Claimant against the order of termination dated 5.6.1998 on the following amongst other:

GROUND

(a) Because the conditions of services of the Claimant has been arbitrarily and illegally changed by the respondent management in contravention to Sec. 9 of the Industrial Disputes Act, 1947 and with a malafide intention and ulterior motives to cause termination of the Claimant's substantive employment in the substantive cadre of "Causal employees."

(b) Because the order of termination dated 5.6.1998 is absolutely illegal and unsustainable in the eyes of the law in as much as the allegations of misconduct and shortcomings mentioned in the order of termination have never been intimated to the Claimant during the course of his employment; and further no enquiry has been instituted by the management into the alleged misconduct / shortcomings.

(c) Because the order of termination dated 5.6.1998 is absolutely illegal and unsustainable in the eyes of the law in as much as the Rule No. 17 of the Standing Orders framed by the Respondent to govern the employment of the Probationer clearly stipulate for clear 7 days notice by giving 24 hours notices in writing informing the Claimant for such move as per the Standing Orders framed by the Management and certified under the I.E. (S.O.) Act, 1946.

(d) Because the order of termination dated 5.6.1998 is absolutely illegal and unsustainable in the eyes of the law in as much as the Respondent Management has not given any notice to the Claimant as required under the Rules /Standing Order No. 17 and as such the Claimant has not been given due and reasonable opportunity of hearing to defend the order of termination dated 5.6.1998. As such the order of termination dated 5.6.1998 is absolutely void ab initio.

(e) Because the order of termination dated 5.6.1998 is absolutely illegal and unsustainable in the eyes of the law in as much as the Respondent had grounded the order of termination on false and fictitious grounds which could not have been imagined /expected from any person who has already been in the service as loader /casual employment since the year 1984 i.e almost past 13 in service of the establishment of the respondent and if there had been any such shortcomings in the performance, that could have been brought to the notice of the Claimant any time during the course of his long years in service. But since the respondent was in look out to terminate the service of the Claimant, it devised the well thought out plan to first put the claimant on probation and then terminate his service alleging any irrelevant or false reasons.

(f) Because the order of termination dated 5.6.1998 is absolutely illegal and unsustainable in the eyes of the law in as much as no rule or standing order framed by the respondent provide to put any person working in non-technical unskilled job on probation to judge the skill in the unskilled category of work.

(g) Because the order of termination dated 5.6.1998 is absolutely illegal and unsustainable in the eyes of the law in as much as the respondent illegally contrary to the provisions of Sec. 9 of the ID. Act, 1947 changed the service conditions of the Claimant by way of substituting his employment on probation from the substantive cadre of "Casual" employment as substantively classified statuterly under the classification clause of the certified standing orders of the respondent establishment. As such the order of termination is absolutely illegal and arbitrary caused with a malafide motive.

(h) Because the order of termination dated 5.6.1998 is absolutely illegal and unsustainable in the eyes of the law in as much as the management of the respondent with a malafide design in their mind wrongly persuaded the Industrial Tribunal (CGIT) in proposing a scheme under the garb of regularization of services of the casuals, whereas in fact a true interpretation of the word "Regularization" was to be interpreted in terms of the demands raised by the workmen against act of victimization in service at the hands of the management in giving artificial

breaks in service, payment of due wages and other service benefits as available to each employee employed in the respective cadre classified as per the classification clause of the Certified standing orders of the establishment of the respondent.

(i) Because the order of termination dated 5.6.1998 is absolutely illegal and unsustainable in the eyes of the law in as much as the Claimant including other casuals employees never meant that their substantive cadre should be changed and they be fixed in the class of permanent workman as per classification i.e. a class definitely separate from the cadre of casuals. As such the management played fraud upon the adjudicating authority by way of misleading the Statutory authority under the I.D. Act, 1947 to wrongly interpret the term “Regularisation” in service and rendering findings to the effect that since there is no existing vacancy in the establishment, the Claimant shall be regularised in the phased manner only and not at once.

(j) Because the order of termination dated 5.6.1998 is absolutely illegal and unsustainable in the eyes of the law in as much as the Claimant being an illiterate person was given to unjustifiably feel complacent that since the management has put him on probation, it would be deemed an step ahead toward implementation of his demands under the award dated 4.3.1991, but for his acts of shortcomings he was terminated from his service under a well devised plan and strategy. As such the order of termination being based on fraud and misrepresentation is absolutely illegal to the provisions of the Contract Act, 1872 and thus illegal and liable to be declared void ab initio.

(k) Because the order of termination dated 5.6.1998 is absolutely illegal and unsustainable in the eyes of the law in as much as the management of the respondent has with definite reasons precluded the Claimant under false and hollow assurances and promises under the garb of exhausting the list of employees in regularizing their service from the list annexed with the award dated 4.3.1991 in phased manner, whereas the respondent has also been recruiting the casual employee from outside and outsourcing the work of 'loading' with the aid of Contractors by way of employing contract labour on the job of 'loader'. And as such the Claimant has been kept in dark for long with malafide motives and unjustifiably precluded by the management from raising objections by way initiating the legal action against the management which move could have deteriorated the relations of the Claimant with the respondent officials and the Claimant would have earned grudge of the officials responsible in the task of granting the benefit of regularization of service of casuals who had prosecuted their demands before the CGIT.

(l) Because the order of termination dated 5.6.1998 is absolutely illegal and unsustainable in the eyes of the law in much as the Claimant had an Existing Right to be continued in the employment of the respondent establishment in the cadre of casual for the service of “Loader” And since the respondent has snatched Claimant substantive and existing right on false and baseless grounds, the Claimant is entitled for the grant of declaration against the wrongful termination of his services through impugned letter to termination dated 5.6.1998.

(m) Because the Claimant has been kept waiting by the respondent management for his turn to come and the claimant as such had been kept in dark as not disclosing the correct position of the persons regularised in the list to the claimant with a malafide intention to let pass easily the time available to the claimant to challenge any illegal action of the management under the alleged pretext to wait for his turn to come, and thus under the said assurances the claimant could not raise the dispute earlier, otherwise such action on the part of claimant would have been pleaded by the respondent management as premature & untimely.

PRAYER

It is therefore respectfully prayed that in view of the submission of facts and law mentioned hereinabove in this claim petition, this Hon'ble authority may be pleased to:—

(a) Set aside the order of termination dated 05.6.1998 as being illegal, unjustified, wrongful & malafide dismissal from services;

(b) Pass an award granting the claimant relief of reinstatement in respondent's services with full back wage and accrued benefits; and

(c) Costs of the present proceedings be passed against the respondent and in favour of the Claimant.

MANAGEMENT FILED WRITTEN STATEMENT AGAINST CLAIM STATEMENT WHEREIN UNDERHEAD PARAWISE REPLY TO THE GROUNDS.

Management stated as under:—

(A) Contents of para (a) of the grounds are wrong hence denied. It is specifically denied that there is any change in the service conditions of the claimant and the Management with malafide contentions terminated the services of the claimant. It is submitted that the claimant was considered for regularization and as per relevant Rules of the Management, he was placed on probation along with similarly placed casual workers. However, the performance of the claimant was not found to be satisfactory during the probation period. The Management being a

benevolent employer gave sufficient opportunities to the claimant to improve his conduct and reference for which his probation period was extended. However, the conduct and performance of the claimant did not improve. Accordingly, the services of the claimant were terminated on the ground of unsatisfactory performance during probation period.

(B) In reply to the contents of para (b) of the ground, it is submitted that the termination of the services of the claimant is not illegal as the said termination was on the ground of unsatisfactory performance during the probation period.

Further, it is denied that the claimant was informed by the Management about his poor performance. It is submitted that the claimant was informed vide letters dated 20.11.1997, 12.12.1997 and 12.3.1998 to improve his conduct and attendance and the same have been duly received by him also. It is further submitted that the Claimant himself vide letters dated 28.01.1998 and 17.04.1998 assured the Management that he would not remain absent without permission or consume alcohol on duty and demand bribe from any person. It is further submitted that there was no need of conducting enquiry as his services were terminated on the ground of unsatisfactory performance, during the probation period and the action was in terms of the Standing Orders applicable to the Workman.

(C) It is denied that the termination of the Claimant was illegal and unsustainable in the eye of the law. The services of the claimant was terminated in terms of Standing Order 5(i) of the Certified Standing Orders applicable to the workman, which read as under:—

"5(i) Every workman appointed or promoted to a permanent post shall be required to undergo probation for six months or twelve months, as prescribed under Standing Orders 3(b)...

The Competent Authority may terminate the services of a workman either during at the expiry of the probationary period 'for the reasons to be recorded in writing'"

(D) As stated hereinabove, the termination was under Section 5(i) of the Certified Standing Orders. It is submitted that the termination order is not void and much less void abinitio as the said order was passed in accordance with the terms of appointment letter, which the Claimant had accepted without any objection. It is further submitted that the allegation of the claimant that he was not given due and reasonable opportunity is wrong because he was given sufficient opportunities to improve his conduct and performance after being informed about his unsatisfactory performance vide various letters.

(E) Contents of para (e) of the ground are false, misconceived illconceived hence denied. Contents of aforementioned paras of preliminary objections and parawise reply may be read as part of the para under reply. The workman had worked for 549 days since 1985 to 1992 as casual worker on daily wage basis, before being regularized in the year 1997.

(F) Contents of para (f) of the grounds are wrong hence denied. It is submitted that as per Rules of the Company every person has to be put on probation before making his services confirmed. Therefore, the claimant was put on probation along with all suitably placed incumbents and there is nothing illegal about it.

(G) Contents of para (g) of the grounds are false, misconceived hence denied. Contents of Objections and parawise reply may be read as part of the para under reply.

(H) & (I). In reply to the contents of para (h) (i) of the grounds it is submitted that the allegation of the workman that the management wrongly persuaded the Ld, CGIT to lay down the Scheme for regularization in its Award dated 4.3.1991 is absurd and contemptuous. Notwithstanding the above, it is once again reiterated that the Award of the CGIT dated 4.3.1991 had no bearing on the regularization/ termination of the Claimant. Ret of the contents are denied, as being baseless and frivolous.

J to M Contents of Paras (j), (h), (l) and (m) of the ground are false, concocted, misconceived, ill-conceived hence denied. It is denied that the termination of the services of the claimant is illegal to the provisions of Contract Act, 1872 and void abinitio. Contents of aforementioned paras of preliminary objections and parawise reply may be read as part and parcel of the para under reply.

Prayer clause is denied in its entirety.

It is respectfully prayed that the statement of claim should be dismissed in limini as the claim is frivolous and false and the matter may be decided in favour of the Management.

Against aforesaid Written Statement Workman filed Replication on 15.7.2009.

Wherein he denied the allegation of Written Statement and reaffirmed the contents of statement of claim.

My Ld. Predecessors has not framed any issue on 12/8/2009 and proceeded with the case on the basis of Questions of determination mentioned in the Schedule of the reference.

Workman on 12/8/2009 filed affidavit in his evidence alongwith documents. Copy supplied to Ld. A/R for the management. Wherein he stated as follows:—

1. That the deponent is the claimant workman in the above noted case and as such fully conversant with the facts and circumstances of the case, thus competent to depose this affidavit.

2. That on 10.4.1981 the management of the respondent adopted a policy whereby the casual workers in any service carried on their establishment were given artificial breaks in service, wage cut on day of absence from duty and no leave facility etc. The true copy of the said circular dated 10.4.1981 is on record with the list of documents and the same is marked Exhibit CW-1/1.

3. That the deponent was employed in the year 1984 by the respondent in the services as "Loader" in the classified cadre of "Casual employees" as per certified Standing Orders of the respondent and as such the claimant was working in the respondent establishment as "Casual Loader".

4. That the work relating to the "loader" is a unskilled work for which no skill is required but the management of the respondent with a malafide intention an ulterior motives changed the service conditions on 28.5.1997 and put the claimant on probation w.e.f. 16.6.1997 which was subsequently got extended malafidely from time to time despite the work and conduct of the claimant was always satisfactory.

5. That during the entire period of service of the claimant the claimant has never been issued any chargesheet for any misconduct nor the claimant has ever misconducted.

6. That on 5.6.1998 the respondent illegally and unjustifiably terminated the services of the claimant on false, baseless charges for which no chargesheet has ever been issued and nor any enquiry was held by the respondent. As such since no opportunity of hearing was given to the claimant before terminating the services, the order of termination dated 5.6.1998 is absolutely illegal and void ab initio. The list of documents and the same is marked Exhibit CW-1/2.

7. That the Deponent filed his claim statement dated 12.9.2008 in pursuance of the order of reference dated 19.8.2008 wherein the facts and circumstances leading to tiling of the claim petition before this Hon'ble court have been stated in detail and for the sake of brevity the same are not repeated herein, hence the deponent reiterate the facts as stated in the claim statement dated 12.9.2008 and the same may be read as part and parcel of this affidavit.

8. That I have understood the contents thereof and the same are true and correct and the same have been read over to me in my vernacular language.

Workman tendered his affidavit on 19/8/2010.

He was cross-examined on the same day. His cross examination is as follows:—

It is correct that I was appointed on 16.6.1997 and was put on probation for Six months. My probation was extended twice. My probation was last extended on 16.3.1998 and this extension was for a period for three months and the same was to expire on 16.6.1998. It is wrong to suggest that my services were found unsatisfactory by the management and so they terminated my services during the period of probation. I have seen the documents which are WW1/M1 and WW1/M2 and I admit these documents and these documents bear my signatures at point A & C respectively. Another document dated 12.12.1997 has been shown to me by the A/R of the management and after seeing my alleged signatures on it, I say that it does not bear my signatures at point B. The document is marked as Mark A. I admit letter dated 17.4.1998 and the same bears my signatures at point F and is Exhibit WW1/M3. I also admit my appointment letter which is Exhibit WW1/M4 (Colly.) and it bear my signatures at point D and E. It is wrong to suggest that I have no case against the management. Ever since the termination of my services on 05.6.1998, I do the job of a washerman and sometimes sells vegetables also and on an average I earn about Rs. 2000/- per month since the said date for sustaining myself and my family which consists of myself, my wife and two children. My children are studying in eight and tenth class in Central School with practically no fees.

Management in support of its case filed affidavit of management witness Sh. G.S. Khalsa, Wherein he stated as follows:—

1. I say that I am working as Dy. Manager Personnel with the above named Management and as such being conversant with the facts and circumstances of the present case, am competent to swear this Affidavit.

2. I say that the Claimant was engaged on daily basis as a casual worker and worked with the Management intermittently for a period of 549 days during 1985 to 1992 as per the exigencies of work.

3. I say that the casual workers working with the Management approached the Hon'ble Supreme Court for regularization of their service. The Hon'ble Supreme Court vide Order dated 28.5.1987 in CPW Nos. 604/1987 & 581/1987 directed the Government to refer the matter for adjudication under the provisions of the Industrial Disputes

Act, 1947. Accordingly, during the adjudication of the matter a Scheme was prepared and submitted by the Management before the Central Government Industrial Tribunal-Cum-Labour Court. The Ld. Presiding Officer approved & upheld the Scheme in I.D. No. 99/87 vide Award dated 04.03.1991 and directed that the regularization has to in accordance with the Scheme. Copy of the Award dated 04.3.1991 wherein the Scheme has been approved is annexed hereto and exhibited as Ex. MWI/L.

4. I say that the casual workers challenged the criteria of the Scheme in the Hon'ble Supreme Court. The Hon'ble Supreme Court vide Order dated 30.3.1992 upheld the Scheme of the Management. Copy of the Order dated 30.3.1992 is annexed hereto & exhibited as Ex. WWI/2. It was held that the regularization of the casual workers had to be done in accordance with the said Scheme.

5. I say that the Claimant was not found eligible as he did not fulfil the criteria of completion of 240 days as on 31.12.1987 laid down in the Scheme and thus was not considered for regularization. The issue of regularization in terms of CGTT Award dated 04.03.1991 was closed in the year 1992.

6. I say that apart from the aforesaid Scheme, another exercise for regularization of casual workers who were working on daily wages from time was carried out by the Management in the year 1995. I further say that the name of the Claimant was recommended for selection by the Selection Panel vide its Report dated 30.01.1996. I further say that his name was listed at Sr. No. 53 in the Panel recommending 56 names in total. The eligibility of the casual workers was considered under the following two groups:

(1) Casual labourers engaged prior to 01.07.1989 who had completed 240 days as on 31.12.1993 and had also worked with this Company in 1992.

(II) Casual labourers who were not interviewed/recommended by the Selection Panel which interviewed casual labourers in the year 1991-92, as their candidature was to be considered subject to the outcome of the disciplinary proceeding initiated against them for misconduct, such a theft, forgery, moral turpitude, assault, etc.

Copy of Selection Panel Report dated 30.01.1996 is annexed hereto and exhibited as Ex. MWI/3.

7. I say that the Claimant was found eligible for regularization and was offered the post of Loader on probation vide letter No. DAP/R-27 dated 28.05.1997. On acceptance of the said terms & conditions of the offer Letter, the Claimant was appointed as Loader in the Airport Services Department w.e.f. 16.06.1997. Copy of the offer

Letter Ref No. DAP/R-27 dated 28.05.1997 is annexed hereto and exhibit as Ex. MWI/4 and copy of the Appointment Letter dated 27.6.1997 is annexed hereto and exhibited as Ex. MW 1/5. I further say that the Scheme dated 04.03.1991 has no bearing on the regularization of the services of the Claimant.

8. I say that the Claimant was put on probation for a period of 6 months, along with all other casual workers who were found eligible, as per the Recruitment Procedure & Rules of the Management. It is pertinent to point out that all incumbents whose services were regularized under the Scheme dated 04.03.1991 were also put on probation and there is no illegality in the action of the Management by putting the Claimant on probation.

9. I say that the performance of the claimant during the probationary period was not satisfactory and his probation was extended twice w.e.f 16.12.1997 and 16.03.1998 vide letters dated 12.12.1997 and 12.03.1998, Copies of the letters dated 12.12.1997 and 12.03.1998 alongwith the acknowledgement receipts are annexed hereto and exhibited as Ex. MW 1/6 (Colly.).

10. I say that the Claimant was counseled and warned by the Management on various occasions for his unauthorized absence and poor performance. The Claimant had also submitted his apologies for the same. The incidents are mentioned herein exemplary;

(i) The Claimant was advised to 'improve his attendance' vide letter No. ASD/DEL/09-07/2221 dated 20.11.1997. Copy of the said letter alongwith acknowledgement receipt are annexed hereto and exhibited as Ex. MWI/7 (Colly.).

(ii) The Claimant was found to be under influence of alcohol, while on duty. On many occasions he was warned verbally by his Duty Officers. In this regard, vide letter dated 28.01.1998 the Claimant had assured that, in future he would not remain absent without permission and also would not take alcohol, while on duty. He had also submitted in writing that in case any such instance recurred in future, management shall be empowered to dismiss him from the services. Copy of the said letter is annexed hereto and exhibited as Ex. MWI/8.

(iii) On 17.4.1998, the Claimant, while on duty, was caught while demanding dollars from some Haj Passengers. He was also found to be in drunken condition. Haj Committee members had taken the incident very seriously. He accepted his fault and assured vide his letter dated 17.4.1998 that he would not repeat such act again. Since the Claimant was under the influence of Alcohol, he was medically examined by the Medical Officer of the

Company. The result of the test was positive and he was found to be under the influence of alcohol. Copies of the report of the Breathalyzer Test and the apology letter are annexed hereto and exhibited as Ex. MW1/9 and Ex. MW1/10 respectively.

11. I say that despite of several opportunities, warnings and counseling by the management, the Claimant did not show any improvement in his performance. Accordingly, the Management vide its letter No. GSD/DEL/05.04/476 dated 05.06.1998 terminated the services of the Claimant with immediate effect, in term of clause 5(i) of the Certified Standing Orders applicable to the claimant.

I further say that the action of the Management in terminating the services of the Claimant on the ground of unsatisfactory performance during the probation is not illegal. Copy of the Extract of Clause 5(i) of the Certified Standing Orders and termination letter dated 05.06.1998 are annexed hereto and Exhibited as Ex. MW-1/11 and Ex. MW 1/12 (Colly.) respectively.

12. I say that the claimant had filed a Writ Petition before the Hon'ble High Court of Delhi W.P. (C) No. 4850/07 challenging the order of termination of his services. The Hon'ble Court vide its Order dated 09.07.2007 disposed of the Writ Petition as the same found to be suffering from delay and laches. However, the Hon'ble Court granted liberty to the Claimant to approach the Labour Court, if the remedy was available under the ID Act. It is pertinent to state herein that in the aforesaid Writ Petition neither notice was issued to the Management nor the Management had any knowledge about it.

13. I say that to the best of the knowledge of the Management, the Claimant is gainfully employed.

14. I say that the exhibits exhibited with the present Evidence by way of Affidavit are true copies of their respective originals.

This case was fixed for Evidence of management on 16/05/13 in the CGIT No. 1 claimant was absent there so Ld. P.O. of CGIT proceeded u/rule 22 of Industrial Dispute (Central) Rules, 1957. Management witness Sh. G.K. Khalsa was present for his testimony. He tendered his affidavit dated 9.11.2010 as evidence. Which was taken on record. Sh. Ravi Gopal A/R for the management closed the evidence of management. Thereafter Ld. PO of CGIT No.1 heard arguments of Management. Matter was reserved for an Award.

On 28.6.2013 I took over as P.O. CGIT -Cum-Labour Court-II so Ld. P.O. CGIT No.1 released this case for adjudication by me. Fixing 1.07.2013.

On 1.07.2013 case was taken up by me. Due to absence of parties and their Ld. A/Rs I issued notices to Ld. A/Rs for the parties.

But none appeared on 1.07.2013, 4.9.2013, 28.10.2013, and 10.12.2013. On 10.12.13 case was taken up by me. I reserved it for Award fixing 2.01.2014 providing opportunity to Ld. A/Rs for argument upto 2.1.2014 before passing Award.

As none for workman appeared to argue the case. Hence, I have heard the argument of Ld A/R for management only and perused the pleadings of parties mentioned in Claim Statement, Written Statement and Rejoinder as well as Evidence of parties which is on record.

Perusal of evidence of Claimant shows that claimant has admitted this fact in evidence that he was provided with opportunities to improve during his probation period.

Pleadings and evidence of management is that due to non-completion of period of probation successfully Claimant/Workman was had to be terminated.

It is crystal clear that MW1 Sh. G.K. Khalsa was not at all cross-examined on behalf of Claimant/Workman. Hence evidence adduced on behalf of management is un rebutted.

As evidence of management is un rebutted and solitary evidence of workman is full of admissions of case of management. Hence this Tribunal has no option except to dismiss the Statement of Claim and decide reference in favour of Management and against Workman.

Reference is accordingly decided.

Award is accordingly passed.

Dated:—02/1/2014

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 17 फरवरी, 2014

का०आ० 866.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 157 का 99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17.02.2014 को प्राप्त हुआ था।

[सं० एल-20012/132/1999-आईआर (सी-1)]
एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 17th February, 2014

S.O. 866.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award Ref. 157/99) of

the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL, and their workmen, received by the Central Government on 17/02/2014.

[No. L-20012/132/1999-IR(C-I)]
M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference U/S 10(1) (D) (2A) of I.D. Act, 1947

Ref. No. 157 of 1999.

Employers in relation to the management of Bararee
Colliery M/S. BCCL

AND

Their Workmen

Present : Sri Ranjan Kumar Saran, Presiding Officer.

Appearances:

For the Employers: None

For the Workman: Sri D. Mukherjee, Rep.

State : Jharkhand

Industry : Coal

Dated. 18/6/2013

AWARD

By Order No. L-20012/132/1999-IR(C-I), dated 16.07.1999, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

Schedule

“क्या वी०सी०सी०एल०, वरारी कोलियरी के प्रबंधन द्वारा श्री केदार सिंह पासवान को दिनांक 6.2.95 से एस०डी०एल० ऑपरेटर का वेतन न दिया जाना न्यायोचित है? यदि नहीं तो कर्मकार किस राहत के पात्र है तथा किस तिथि से?”

2. The case is received from the Ministry of Labour & Employment on 03.08.99. After notice both parties appeared, the Union/workman files their written statement on 14.09.1999 and after that the management files written statement-cum-rejoinder on 29.02.2000.

3. The workman has filed affidavite evidence but has not been cross-examined by the management. The claim of

the workman is he has been appoint as SDL Operator since 6.2.95 and prays that he be regularised in the said post which has been resisted by the management. It is not the case of the management that the workman was not working as such.

4. On behalf of the workman, the photocopy of his appointment letter has been filed, alongwith his job acceptance acknowledgement. It is felt that letter of appointment to copy down below:—

Bararee Colliery

Form of Appointment of Competent Persons

Coal Mines Regulations, 1957.

Clause 36

Book No.

No. 72

You Kedar Paswan (M.C.L.) having been appointed at this Mine are hereby authorised as SDL Operator at Govt. Bararee mine/seam/district, a copy of the regulations, rules, bye-laws and orders made thereunder, which affect you, being made over to you. For 6 (Six) Months.

Owner/Agent/Manager

Dated 196 .

I Kedar Paswan having been appointed at this Colliery accept authorisation at SDL Operator at Govt. Bararee mine/seam/district and acknowledge receipt of a copy of the regulations, rules, bye-laws and orders made thereunder, which affect me.

Dated 23/1/05

Kedar Paswan

Signature or

Thumb-impression of the
persons appointed/authorised

5. If the above appointment letter is not denied by the management and there is no adverse remark against the workman, why he will not be regularised in the said post as SDL operator.

6. Considering the facts and circumstances of this case, I hold that the action of the management of Bararee colliery of M/s. BCCL in not regularising Sri Kedar Singh Paswan as SDL operator is not legal and justified. And his job is to be regularised as SDL operator w.e.f. 6.2.95 i.e. from the date of his appointment.

This is my award

R.K. SARAN, Presiding Officer

नई दिल्ली, 17 फरवरी, 2014

का०आ० 867.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टेलीकॉम डिस्ट्रिक्ट मेनेजर, भारत संचार निगम लिमिटेड, रायचूर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय बेंगलूर के पंचाट (संदर्भ संख्या 143/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 08/02/2014 को प्राप्त हुआ था।

[सं० एल-40011/30/2007-आई आर (डीयू)]
पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 17th February, 2014

S.O. 867.—In pursuance of Section 17 of the Industry Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. 143/2007) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as show in the Annexure in the Industrial Dispute between the employers in relation to the management of The Telecom District Manager, Bharat Sanchar Nigam Limited, Raichur and their workman, which was received by the Central Government on 08/02/2014.

[No. L-40011/30/2007-IR (DU)]
P.K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated: 3rd February, 2014

Present:

Shri S.N. NAVALGUND,
Presiding Officer

CR No. 143/2007

I Party

Sh. Hussain Saheb, Branch
Secretary, National Federation
of Telecom Employees Union,
BSNL, Sindhanur PO,
RAICHUR-584 102.

II Party

The Telecom District Manager
Bharat Sanchar Nigam Limited
Hyderabad Road
Raichur-584102

Appearances

I Party:

Shri J. Satish Kumar
Advocate

II Party:

Shri Y. Hari Prasad
Advocate

AWARD

1. The Central Government vide order No. L-40011/30/2007-IR (B-DU) dated 09.10.2007 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following schedule:

SCHEDULE

"Whether the demand of National Federation of Telecom Employees Union for regularisation of services of Shri Muneer Basha and 23 others, as per Annexure, is legal and justified? If yes, to what relief the workman are entitled to?"

2. On receipt of the reference while registering it in CR 143/2007 when notices were issued to both the parties, Sh. Hussain Saheb, Branch Secretary, NFTE Union (BSNL), Sindhanur (hereinafter referred as I Party) appeared through J. Satish Kumar, Advocate and filed his claim statement on 10.06.2010, whereas, the Telecom Department (herein after referred as I Party) appeared through Sh. Y. Hariprasad, Advocate and filed its counter statement on 13.08.2010.

3. The I Party in his claim statement asserts that the DGM (EST) while giving his report dated 12.07.2004 vide his letter No. ESTT-137/99-2000 addressed to General Manager, Telecom, Bangalore having reported the 24 workmen covered in this reference having worked as Under:

Sl. No.	Name of Employee	Date of entry	Cate-gory	Nature of work	No. of days worked
1.	Sri Muneer Basha	01.03.1995	II A	Yadiwal exchange incharge	1170
2.	Baji Shaeed	01.06.1995	II B	Assistant Clerk	1710
3.	Goutham	01.02.1998	OBC	Exchange line Man	995
4.	Khaja Moinuddin	10.04.1996	II B	Exchange line Man	1120
5.	M Pampapathi	01.08.1994	OBC	Assistant Line Man	1670
6.	Tatappa	01.11.1992	OBC	Asst. Lineman	2140
7.	P. Ramanna	01.01.1993	OBC	Asst. Lineman	2120
8.	Durgappa	01.07.1988		Lineman	13 Yrs.
9.	Shivaraj Biredar	01.05.1996	OBC	Lineman	1200

Sl. No. of Employee	Name	Date of entry	Cate-gory	Nature of work	No. of days worked
10.	Syed Khaja Mohinuddin	10.08.1992	Bani-giga	Asst. Lineman	2200
11.	Amatappa	01.01.1983	Bani-giga	Asst. Lineman	17 Years
12.	Mareppa	01.10.1996	SC	Lineman/Driver	1120
13.	Somanatha	01.05.1998	OBC	Asst. Lineman /Cable Jointer	670
14.	Durgappa	01.10.1998	OBC	Asst. Lineman	590
15.	Venkatesh	01.08.1993	OBC	SDE-Cable Jointer	1945
16.	K Shankar	01.01.1994	OBC	Asst. Lineman	1855
17.	Palakshaiah Hiremath	01.09.1999	OBC	Asst. Lineman	620
18.	Syed Arifuddin	01.07.1995	II B	Asst. Lineman	1435
19.	Abdul Rahim	01.05.1999	OBC	Asst. Lineman	670
20.	Nagaraj Madiwalar	20.01.1993	OBC	Lineman	2120
21.	Murth-yunjaya Hiremath	01.05.1992	OBC	Asst. Lineman	9 Yrs.
22.	Hanumesh Bangi	01.02.1993	II A	MDF work	11 Years
23.	Moulappa Kattimani	01.02.1993	SC	Lineman	1955
24.	Srinivas	01.05.1993	SC	Lineman	1940

though they have worked more than the days mentioned therein the department itself having had admitted engaging the services of I Party workman for long spell of period and still these workers continued to work in the II Party department. It is further asserted though the nature of work carried by these workmen is regular and perennial in nature the II Party has so far failed to regularise their services inspite of its (I Party) representations after the imposition of ban on casual mazdoor/part-time mazdoor from 30.03.1985 and after much persuasion the II Party issued a direction to the circle office to send list of employees working in the department after imposition of ban on recruitment of casual mazdoor/part time mazdoor from 30.03.1985 and accordingly DGM (Est) by his letter dated 12.07.2004 under No. EST3/99-2000 furnished the details

as stated above and thereafter in the year 2002 the department issued a letter seeking information and clarification by issuing proforma in respect of details of work discharged by them and same was furnished with the fond Service Agency, Raichur and never worked on Muster Rolls of the Department as such the question of regularisation of their services does not arise at all. It is further contended the DGM (Est) of the CGMT, Bangalore under his DO No. 3-137/99-2000 dated 12.07.2004 did not mention these persons as mazdoors of the department and he had annexed the list prepared and submitted by the I Party Union. Thus it is contended as per the judgement of the Hon'ble Supreme Court in Uma Devi since the contractual employment comes to an end at end of the contract the 24 persons mentioned in the list are not entitle for regularisation of services.

4. After completion of the pleadings when the matter was posted for evidence the learned advocate appearing for the I Party while filing the affidavit of the Secretary of the I Party Union swearing to the facts of the claim statement examining him on oath as WW 1 got exhibited Ex W-1 to Ex W-317 the detailed description of which are narrated in the annexure and closed his side. The learned advocate appearing for the II party who during the cross-examination of WW 1 had got exhibited copy of the notice issued to him (WW 1) by the II Party dated 14.03.2007 to show cause as to why action should not be initiated against him for representing falsely the hope of regularisation of their services but it did not take any action inspite of various circulars empowering the department to regularise such workmen and other identically placed workmen and now all of them are being aged above 35 years are unable to get job elsewhere. With these assertions it is prayed to call for the records non-regularisation of their services in the department to direct the II party to regularise their services from the date on which they have been appointed and to grant all consequential benefits which they are entitle on par with the persons whom they have been regularly appointed. *Inter alia*, the II party in its counter statement contended out of the 24 persons shown in the annexure to the schedule of reference only six viz., Sh. Syed Khaja Mohinuddin, Sh. Durgappa, Sh. Murtunjaya, Sh. Amateppa, Sh. Totappa and Sh. B Hanumesh (Sl. No. 4, 8, 21, 11, 6, 22 of the annexure of Schedule of reference) only worked as casual mazdoors DOT period *i.e.*, prior to June, 1993 and stopped working on Muster Rolls during June, 1993 *i.e.*, 16 years before raising this dispute as such High Power Committee at Circle Office level Bangalore has not considered them to continue on Muster rolls from June, 1993 hence the question of their regularisation does not arise and in respect of the remaining 16 workers they are working under the Contractor Diddaneti Upkeep members

who are not the members of the Union as Ex M-1 while filling the affidavit of Sh. K. Prahalad Achar, Assistant General Manager (Admn.), BSNL, Raichur swearing to the contention of the counter statement examined him on oath as MW 1 and closed his side.

5. With the above pleadings, oral and documentary evidence brought on record when the advocates appearing for the respective parties were called upon to address arguments the learned advocate appearing for the I Party submitted that since 1983 services of these workmen being taken by the II Party to avoid rigour of provisions of Industrial Dispute Act being engaged through one or the other contractors they deserve regularisation of their services and in support of his arguments he cited the decision of the Hon'ble Supreme Court in the case of Oil and Natural Gas Corporation Limited *vs.* Engineering Mazdoor Sangh reported in (2007) 1 SCC 250 wherein the decision of the Industrial Tribunal regularizing the services of workmen who had completed 240 days continuous service against vacancies as and when such vacancies became available has been restored by virtue of section 25F of ID Act. *Inter-alia*, the learned advocate appearing for the II Party filed his written arguments reiterating the counter statement and cited the decisions reported in

1. 2006 AIR SCW 1991—Secretary, State of Karnataka & ors. *Vs.* Umadevi & others

2. (2006) 9 SCC 132—Surendranagar Distt. Panchayat and another *vs.* Gangaben Laljibhar and others

3. (2006) 7 SCC 161—Principal, Mehar Chand Polytechnic and another *vs.* Anu Lamba and others

4. (2007) 1 SCC 408—Indian Druga & Pharmaceuticals Ltd., *vs.* Workmen, Indian Drugs & Pharmaceuticals Ltd.,

and further submitted since these workers were contract workers Section 25F of the ID Act is not attracted more over it is not their case that their services have been retrenched in violation of the provisions of Section 25F of the ID Act.

6. On appreciation of the pleadings oral and documentary evidence brought on record by both the sides, in the light of the arguments put forward by the learned advocates for both the sides, I have arrived at conclusion the demand of National Federation of Telecom Employees Union for the regularisation of services of Shri Muneer Basha and 23 others as per Annexure being not legal and justified and that they are not entitle for any relief for the following.

REASONS

7. The I Party who claims that DGM (EST) of the II Party in his letter No. EST-3-137/99-2000 dated 12.07.2004

addressed to Telecom Manager, Bangalore admitted engaging the services of these 24 workmen by the department in respect of which it is contended in the counter statement the list annexed to the said letter was one forwarded which was prepared by the I Party Union has not been produced to substantiate the said assertion as such the contention of the II Party that the list annexed to the said letter was only forwarded by the DGM to the General Manager which was prepared by the I Party Union has to be accepted. Moreover, the I Party/WW 1 in his cross-examination has admitted that these 24 workmen are working under different contractors and that the II Party every year call for tender the appointment of contract labourers and the lowest bidder will get the contract and that the II Party deposits the amount of GPF, PF, ESI and all statutory payments relating to the contract labourers in the same of the contractors and in turn the contract or disburse it to each contract labour and even the voluminous documentary evidence produced by the I Party himself do suggest that they have worked under different contractors. Further WW 1 in his cross-examination having categorically admitted that out of the 24 workmen covered in this reference the workmen Sh. Syed Khaja Mohinuddin, Sh. Durgappa, Sh. Murtunjaya, Sh. Amateppa, Sh. Totappa and Sh. B. Hanumesh were only working on Muster Roll before 1993 and in the year 1993 when a scheme called conferment of casual labour status was introduced the names of those six workmen were sent to circle office before High Power Committee and that the High Power Committee sent the names of those six men back saying that they have not fulfilled the terms and conditions of the scheme and that apart from those six workmen the remaining 18 workmen never worked on Muster Rolls and were working under different contractors, the claim of the I Party that the 24 workmen covered in this reference were directly engaged by the II Party falls to the ground. Moreover, the learned advocate appearing for the I Party who was unable to point out any provision of law giving rise to right of regularisation to such workers and it is also not being the case of the I Party that the services of these workmen were availed against the permanent employees either going on leave or remaining absent for any reason the question of regularizing the services of such contract employees does not arise at all. Since no amount of long service by a casual labourer or contract worker gives rise to right to regularisation the I Party failed to make out any case of regularisation of service of the workmen covered in this reference.

8. In the result, I arrived at conclusion the demand of National Federation of Telecom Employees Union for regularisation of services of Shri Muneer Basha and 23 others as per Annexure is not legal and justified and that they are not entitle for any relief and accordingly, I pass the following

ORDER

The Reference is rejected holding that the demand of National Federation of Telecom Employees Union for regularisation of services of Shri Muneer Basha and 23 others as per Annexure is not legal and justified and that they are not entitle for any relief.

(Dictated to U D C, transcribed by him corrected and signed by me on 3rd February 2014)

S.N. NAVALGUND, Presiding Officer

ANNEXURE-I**Witnesses examined:**

MW 1-Sh. K Prahalad Acharya, Assistant General Manager (Admn)

WW-I Sh. Hussain Saheb, Secretary, NFTEU

Documents exhibited on behalf of the I Party:

- Ex W-1 : Letter No. R&F/3-137/Union Corr dated 23.09.2004 issued by BSNL, Bangalore
- Ex W-2 : Letter No. 20104504/Cash/2010-2011/RCH01/506/2856/RL No. 1041, 20104505/Cash/20102011/RCH01/507/2870 dated 16.12.2010 issued by Employees Provident Fund Organisation, Raichur with regard to Sri Nagaraj Madivalar s/o Durugapa
- Ex W-3 : Letter No. 2620417/Cash/2006-2007/HBL03/974/2381/R.L. No. 19 dated 10.11.2006 issued by Employees Provident Fund Organisation, Hubli with regard to Sri Munir Basha s/o Gouse Mohinuddin
- Ex W-4 : Letter No. 2620417/Cash/2006-2007/HBL03/476/2409/R.L. No. 19 dated 10.11.2006 with regard to Sri Munir Basha s/o Gouse Mohinuddin
- Ex W-5 : Letter No. 20104502/Cash/2010-2011/RCH01/506/2854/R.L. No. 1039 20104502/Cash/2010-2011/RCH01/507/2868/R.L. No. 1039 dated 16.12.2010 issued by Employees Provident Fund Organisation, Hubli with regard to Sri Khaja Mainuddin s/o Syed Buranuddin
- Ex W-6 : Letter No. 20104500/Cash/2010-2011/RCH01/506/2853/R.L. No. 1038 20104501/Cash/2010-2011/RCH01/507/2867 dated 16.12.2010 issued by Employees Provident Fund Organisation, Hubli with regard to Sri Khaja Mainuddin s/o Syed Buranuddin
- Ex W-7 : Register of Wages for January 2004—Principal Employer: TDM, BSNL-Raichur-

Contractor; M/s. Vikranth Defective Security Agencies

- Ex W-8 : Register of Wages for February 2004—Principal Employer: TDM, BSNL-Raichur-Contractor; M/s. Vikranth Defective Security Agencies
- Ex W-9 : Register of Wages for March 2004—Principal Employer :TDM, BSNL-Raichur-Contractor; M/s. Vikranth Defective Security Agencies
- Ex W-10 : Register of Wages for April 2004—Principal Employer :TDM, BSNL-Raichur-Contractor; M/s. Vikranth Defective Security Agencies
- Ex W-11 : Register of Wages for May 2004—Principal Employer :TDM, BSNL-Raichur-Contractor; M/s. Vikranth Defective Security Agencies
- Ex W-12 : Register of Wages for June 2004—Principal Employer :TDM, BSNL-Raichur-Contractor; M/s. Vikranth Defective Security Agencies
- Ex W-13 : Register of Wages for July 2004—Principal Employer :TDM, BSNL-Raichur-Contractor; M/s. Vikranth Defective Security Agencies
- Ex W-14 : Register of Wages for August 2004—Principal Employer :TDM, BSNL-Raichur-Contractor; M/s. Vikranth Defective Security Agencies
- Ex W-15 : Register of Wages for September 2004—Principal Employer :TDM, BSNL-Raichur-Contractor; M/s. Vikranth Defective Security Agencies
- Ex W-16 : Register of Wages for October 2004—Principal Employer :TDM, BSNL-Raichur-Contractor; M/s. Vikranth Defective Security Agencies
- Ex W-17 : Register of Wages for November 2004—Principal Employer :TDM, BSNL-Raichur-Contractor; M/s. Vikranth Defective Security Agencies
- Ex W-18 : Register of Wages for December 2004—Principal Employer :TDM, BSNL-Raichur-Contractor; M/s. Vikranth Defective Security Agencies
- Ex W-19 : Register of Wages for February 2006—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore
- Ex W-20 : Register of Wages for March 2006—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore

Ex W-21	:	Register of Wages for April 2006—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore				Tough-1 Security Allied Services, Bangalore
Ex W-22	:	Register of Wages for May 2006—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	Ex W-34	:	Register of Wages for May 2007—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	
Ex W-23	:	Register of Wages for June 2006—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	Ex W-35	:	Register of Wages for June 2007—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	
Ex W-24	:	Register of Wages for July 2006—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	Ex W-36	:	Register of Wages for July 2007—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	
Ex W-25	:	Register of Wages for August 2006—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	Ex W-37	:	Register of Wages for August 2007—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	
Ex W-26	:	Register of Wages for September 2006—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	Ex W-38	:	Register of Wages for September 2007—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	
Ex W-27	:	Register of Wages for October 2006—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	Ex W-39	:	Register of Wages for October 2007—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	
Ex W-28	:	Register of Wages for November 2006—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	Ex W-40	:	Register of Wages for November 2007—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	
Ex W-29	:	Register of Wages for December 2006—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	Ex W-41	:	Register of Wages for December 2007—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	
Ex W-30	:	Register of Wages for January 2007—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	Ex W-42	:	Register of Wages for January 2008—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	
Ex W-31	:	Register of Wages for February 2007—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	Ex W-43	:	Register of Wages for February 2008—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	
Ex W-32	:	Register of Wages for March 2007—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	Ex W-44	:	Register of Wages for March 2008—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	
Ex W-33	:	Register of Wages for April 2007—Principal Employer :TDM, BSNL-Raichur-Contractor;	Ex W-45	:	Register of Wages for April 2008—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	

Ex W-46	: Register of Wages for May 2008—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	Ex W-57	: Pay Slip of Mr. Syed Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of July 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-47	: Register of Wages for June 2008—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	Ex W-58	: Pay Slip of Mr. Syed Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of August 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-48	: Register of Wages for July 2008—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	Ex W-59	: Pay Slip of Mr. Syed Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of September 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-49	: Register of Wages for August 2008—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	Ex W-60	: Pay Slip of Mr. Syed Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of October 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-50	: Register of Wages for September 2008—Principal Employer :TDM, BSNL-Raichur-Contractor; Tough-1 Security Allied Services, Bangalore	Ex W-61	: Pay Slip of Mr. Syed Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of November 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-51	: Pay Slip for the month November 2008 for all the up keep persons of Sindhanur Section, Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-62	: Pay Slip of Mr. Syed Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of December 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-52	: Pay Slip of Sh. S K Moinduddin, JWGR T/Exchange, Sindhanur for the month of January 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-63	: Pay Slip of Mr. Syed Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of January 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-53	: Pay Slip of Mr. Syed Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of March 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-64	: Pay Slip of Mr. Syed Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of February 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-54	: Pay Slip of Mr. Syed Khaja Moinduddin, JWGR T/Exchange, Sindhanur for the month of April 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-65	: Pay Slip of Mr. Syed Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of March 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-55	: Pay Slip of Mr. Syed Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of May 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-66	: Pay Slip of Mr. Syed Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of April 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-56	: Pay Slip of Mr. Syed Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of June 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency		

Ex W-67	: Pay Slip of Mr. Syed Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of May 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-78	: Pay Slip of Mr. S.S. Biradhir, MDP T/Exchange, Sindhanur for the month of November 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-68	: Pay Slip of Mr. Syed Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of June 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-79	: Pay Slip of Mr. S.S. Biradhir, MDP T/Exchange, Sindhanur for the month of December 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-69	: Pay Slip for the month November 2008 for all the up keep persons of Sindhanur Section, Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-80	: Pay Slip of Mr. S.S. Biradhir, MDP T/Exchange, Sindhanur for the month of January 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-70	: Pay Slip of Mr. S.S. Biradhir, MDP T/Exchange, Sindhanur for the month of March 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-81	: Pay Slip of Mr. S.S. Biradhir, MDP T/Exchange, Sindhanur for the month of February 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-71	: Pay Slip of Mr. S.S. Biradhir, MDP T/Exchange, Sindhanur for the month of April 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-82	: Pay Slip of Mr. S.S. Biradhir, MDP T/Exchange, Sindhanur for the month of March 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-72	: Pay Slip of Mr. S.S. Biradhir, MDP T/Exchange, Sindhanur for the month of May 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-83	: Pay Slip of Mr. S.S. Biradhir, MDP T/Exchange, Sindhanur for the month of April 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-73	: Pay Slip of Mr. S.S. Biradhir, MDP T/Exchange, Sindhanur for the month of June 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-84	: Pay Slip of Mr. S.S. Biradhir, MDP T/Exchange, Sindhanur for the month of May 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-74	: Pay Slip of Mr. S.S. Biradhir, MDP T/Exchange, Sindhanur for the month of July 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-85	: Pay Slip of Mr. S.S. Biradhir, MDP T/Exchange, Sindhanur for the month of June 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-75	: Pay Slip of Mr. S.S. Biradhir, MDP T/Exchange, Sindhanur for the month of August 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-86	: Pay Slip for the month November 2008 for all the up keep persons of Sindhanur Section, Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-76	: Pay Slip of Mr. S.S. Biradhir, MDP T/Exchange, Sindhanur for the month of September 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-87	: Pay Slip of Mr. H. Durgappa, 7th Mile T/Exchange, Sindhanur for the month of August 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-77	: Pay Slip of Mr. S.S. Biradhir, MDP T/Exchange, Sindhanur for the month of October 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-88	: Pay Slip of Mr. H. Durgappa, 7th Mile T/Exchange, Sindhanur for the month of October 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency

Ex W-89	: Pay Slip of Mr. H. Durgappa, 7th Mile T/Exchange, Sindhanur for the month of September 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-100	: Pay Slip of Mr. M.S. Swamy, HNCL T/Exchange, Sindhanur for the month of September 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-90	: Pay Slip of Mr. H. Durgappa, 7th Mile T/Exchange, Sindhanur for the month of November 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-101	: Pay Slip of Mr. M.S. Swamy, HNCL T/Exchange, Sindhanur for the month of October 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-91	: Pay Slip of Mr. H. Durgappa, 7th Mile T/Exchange, Sindhanur for the month of December 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-102	: Pay Slip of Mr. M.S. Swamy, HNCL T/Exchange, Sindhanur for the month of November 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-92	: Pay Slip of Mr. H. Durgappa, 7th Mile T/Exchange, Sindhanur for the month of January 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-102(a)	: Pay Slip of Mr. M.S. Swamy, HNCL T/Exchange, Sindhanur for the month of December 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-93	: Pay Slip of Mr. H. Durgappa, 7th Mile T/Exchange, Sindhanur for the month of February 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-103	: Pay Slip of Mr. M.S. Swamy, HNCL T/Exchange, Sindhanur for the month of January 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-94	: Pay Slip of Mr. H. Durgappa, 7th Mile T/Exchange, Sindhanur for the month of March 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-104	: Pay Slip of Mr. M.S. Swamy, HNCL T/Exchange, Sindhanur for the month of February 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-95	: Pay Slip of Mr. H. Durgappa, 7th Mile T/Exchange, Sindhanur for the month of April 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-105	: Pay Slip of Mr. M.S. Swamy, HNCL T/Exchange, Sindhanur for the month of March 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-96	: Pay Slip of Mr. H. Durgappa, 7th Mile T/Exchange, Sindhanur for the month of May 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-106	: Pay Slip of Mr. M. S. Swamy, HNCL T/Exchange, Sindhanur for the month of April 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-97	: Pay Slip of Mr. H. Durgappa, 7th Mile T/Exchange, Sindhanur for the month of June 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-107	: Pay Slip of Mr. M. S. Swamy, HNCL T/Exchange, Sindhanur for the month of May 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-98	: Pay Slip for the month November 2008 for all the up keep persons of Sindhanur Section, Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-108	: Pay Slip of Mr. M S Swamy, HNCL T/Exchange, Sindhanur for the month of June 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-99	: Pay Slip of Mr. M.S. Swamy, HNCL T/Exchange, Sindhanur for the month of August 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-109	: Pay Slip for the month November 2008 for all the up keep persons of Sindhanur Section, Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency

Ex W-110	: Pay Slip of Sh. Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of January 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-119	: Pay Slip of Mr. Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of October 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-111	: Pay Slip of Sh. Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of February 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-120	: Pay Slip of Mr. Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of November 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-112	: Pay Slip of Mr. Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of March 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-121	: Pay Slip of Mr. Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of December 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-113	: Pay Slip of Mr. Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of April 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-122	: Pay Slip of Mr. Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of January 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-114	: Pay Slip of Mr. Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of May 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-123	: Pay Slip of Mr. Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of February 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-115	: Pay Slip of Mr. Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of June 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-124	: Pay Slip of Mr. Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of March 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-116	: Pay Slip of Mr. Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of July 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-125	: Pay Slip of Mr. Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of April 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-117	: Pay Slip of Mr. Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of August 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-126	: Pay Slip of Mr. Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of May 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-118	: Pay Slip of Mr. Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of September 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-127	: Pay Slip of Mr. Khaja Moinuddin, JWGR T/Exchange, Sindhanur for the month of June 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
		Ex W-128	: Pay Slip of Mr. P Ramana, S/o Jejappa, Sindhanur for the month of December 2008—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency

Ex W-129	: Pay Slip of Mr. P. Ramana, S/o Jejappa, Sindhanur for the month of February 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-130	: Pay Slip of Mr. P. Ramana, S/o Jejappa, Sindhanur for the month of March 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-142 : Pay Slip of Mr. B. Hanimesh, C-Dot, Sindhanur for the month of August 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-131	: Pay Slip of Mr. P. Ramana, S/o Jejappa, Sindhanur for the month of August 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-143 : Pay Slip of Mr. B. Hanimesh, C-Dot, Sindhanur for the month of September 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-132	: Pay Slip of Mr. P. Ramana, S/o Jejappa, Sindhanur for the month of September 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-144 : Pay Slip of Mr. B. Hanimesh, C-Dot, Sindhanur for the month of October 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-133	: Pay Slip of Mr. P. Ramana, S/o Jejappa, Sindhanur for the month of October 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-145 : Pay Slip of Mr. B. Hanimesh, C-Dot, Sindhanur for the month of November 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-134	: Pay Slip of Mr. P. Ramana, S/o Jejappa, Sindhanur for the month of November 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-146 : Pay Slip of Mr. B. Hanimesh, C-Dot, Sindhanur for the month of December 2009 - Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-135	: Pay Slip of Mr. P. Ramana, S/o Jejappa, Sindhanur for the month of December 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-147 : Pay Slip of Sh. B. Hanimesh, C-Dot, Sindhanur for the month of January 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-136	: Pay Slip of Mr. P. Ramana, S/o Jejappa, Sindhanur for the month of January 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-148 : Pay Slip of Sh. B. Hanimesh, C-Dot, Sindhanur for the month of February 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-137	: Pay Slip of Mr. P. Ramana, S/o Jejappa, Sindhanur for the month of February 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-149 : Pay Slip of Sh. B. Hanimesh, C-Dot, Sindhanur for the month of March 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-138	: Pay Slip of Mr. P. Ramana, S/o Jejappa, Sindhanur for the month of March 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-150 : Pay Slip of Sh. B. Hanimesh, C-Dot, Sindhanur for the month of April 2010 - Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-139	: Pay Slip of Mr. P. Ramana, S/o Jejappa, Sindhanur for the month of April 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-151 : Pay Slip of Sh. B. Hanimesh, C-Dot, Sindhanpur for the month of May 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-140	: Pay Slip of Mr. P. Ramana, S/o Jejappa, Sindhanur for the month of May 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-152 : Pay Slip of Sh. B. Hanimesh, C-Dot, Sindhanur for the month of June 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-141	: Pay Slip of Mr. P. Ramana, S/o Jejappa, Sindhanur for the month of June 2010—	Ex W-153 : Pay Slip of Sh. M. Pampapathi, SDE, C-Dot, Main Exchange, Sindhanur for the month of January 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency

Ex W-154	: Pay Slip of Mr. Pampapathi, SDE, C-Dot, Main Exchange, Sindhanur for the month of April 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-164	: Pay Slip of Mr. M. Pampapathi, SDE, C-Dot, Main Exchange, Sindhanur for the month of March 2010— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-155	: Pay Slip of M. Pampapathi, SDE, C-Dot, Main Exchange, Sindhanur for the month of May 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-165	: Pay Slip of Mr. M. Pampapathi, SDE, C-Dot, Main Exchange, Sindhanur for the month of April 2010— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-156	: Pay Slip of Mr. M. Pampapathi, SDE, C-Dot, Main Exchange, Sindhanur for the month of June 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-166	: Pay Slip of Mr. M. Pampapathi, SDE, C-Dot, Main Exchange, Sindhanur for the month of May 2010— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-157	: Pay Slip of Mr. M. Pampapathi, SDE, C-Dot, Main Exchange, Sindhanur for the month of July 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-167	: Pay Slip of Mr. M. Pampapathi, SDE, C-Dot, Main Exchange, Sindhanur for the month of June 2010— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-158	: Pay Slip of Mr. M. Pampapathi, SDE, C-Dot, Main Exchange, Sindhanur for the month of August 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-168	: Pay Slip of Mr. Somanath, BLG T/Exchange, Sindhanur for the month of December 2008— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-159	: Pay Slip of Mr. M. Pampapathi, SDE, C-Dot, Main Exchange, Sindhanur for the month of September 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-169	: Pay Slip of Mr. Somanath, BLG T/Exchange, Sindhanur for the month of January 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-160	: Pay Slip of Mr. M. Pampapathi, SDE, C-Dot, Main Exchange, Sindhanur for the month of November 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-170	: Pay Slip of Sh. Somanath, BLG T/Exchange, Sindhanur for the month of February 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-161	: Pay Slip of Mr. M. Pampapathi, SDE, C-Dot, Main Exchange, Sindhanur for the month of December 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-171	: Pay Slip of Mr. Somanath, BLG T/Exchange, Sindhanur for the month of March 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-162	: Pay Slip of Sh. M. Pampapathi, SDE, C-Dot, Main Exchange, Sindhanur for the month of January 2010— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-172	: Pay Slip of Mr. Somanath, BLG T/Exchange, Sindhanur for the month of March 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-163	: Pay Slip of Sh. M. Pampapathi, SDE, C-Dot, Main Exchange, Sindhanur for the month of February 2010— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-173	: Pay Slip of Mr. Somanath, BLG T/Exchange, Sindhanur for the month of August 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
		Ex W-174	: Pay Slip of Mr. Somanath, BLG T/Exchange, Sindhanur for the month of September 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
		Ex W-175	: Pay Slip of Mr. Somanath, BLG T/Exchange, Sindhanur for the month of October 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency

Ex W-176	: Pay Slip of Mr. Somanath, BLGT/Exchange, Sindhanur for the month of November 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Doddameti Up Keep Services & Security Agency
Ex W-177	: Pay Slip of Mr. Somanath, BLGT/Exchange, Sindhanur for the month of December 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-188 : Pay Slip of Mr. S. Arifuddin s/o S. Khaja Moinuddin Sindhanur for the month of March 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-178	: Pay Slip of Mr. Somanath, BLGT/Exchange, Sindhanur for the month of January 2010— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-189 : Pay Slip of Mr. S. Arifuddin s/o S. Khaja Moinuddin Sindhanur for the month of April 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-179	: Pay Slip of Mr. Somanath, BLGT/Exchange, Sindhanur for the month of February 2010— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-190 : Pay Slip of Mr. S. Arifuddin s/o S. Khaja Moinuddin Sindhanur for the month of May 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-180	: Pay Slip of Mr. Somanath, BLGT/Exchange, Sindhanur for the month of March 2010— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-191 : Pay Slip of Mr. S. Arifuddin s/o S. Khaja Moinuddin Sindhanur for the month of June 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-181	: Pay Slip of Mr. Somanath, BLGT/Exchange, Sindhanur for the month of February 2010— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-192 : Pay Slip of Mr. S. Arifuddin s/o S. Khaja Moinuddin Sindhanur for the month of July 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-182	: Pay Slip of Mr. Somanath, BLGT/Exchange, Sindhanur for the month of May 2010— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-193 : Pay Slip of Mr. S. Arifuddin s/o S. Khaja Moinuddin Sindhanur for the month of August 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-183	: Pay Slip of Mr. Somanath, BLGT/Exchange, Sindhanur for the month of June 2010— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-194 : Pay Slip of Mr. S. Arifuddin s/o S. Khaja Moinuddin Sindhanur for the month of September 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-184	: Pay Slip for the month November 2008 for all the up keep persons of Sindhanur Section, Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-195 : Pay Slip of Mr. S. Arifuddin s/o S. Khaja Moinuddin Sindhanur for the month of October 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-185	: Pay Slip of Mr. S. Arifuddin s/o S. Khaja Moinuddin Sindhanur for the month of December 2008— Agency: Sri Chandappa, Doddameti Up keep Services & Security Agency	Ex W-196 : Pay Slip of Mr. S. Arifuddin s/o S. Khaja Moinuddin Sindhanur for the month of November 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-186	: Pay Slip of Mr. S. Arifuddin s/o S. Khaja Moinuddin Sindhanur for the month of February 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-197 : Pay Slip of Mr. S. Arifuddin s/o S. Khaja Moinuddin Sindhanur for the month of December 2009— Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-187	: Pay Slip of Mr. S. Arifuddin s/o S. Khaja Moinuddin Sindhanur for the month of January 2009— Agency: Sri Chandappa,	

Ex W-198	: Pay Slip of Mr. S. Arifuddin s/o S. Khaja Moinuddin Sindhanur for the month January 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-209	: Pay Slip of Mr. Muneer Basha s/o Ghouse Moinuddin, HDBL T/Exchange, Sindhanur for the month April 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-199	: Pay Slip of Mr. S. Arifuddin s/o S. Khaja Moinuddin Sindhanur for the month February 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-210	: Pay Slip of Mr. Muneer Basha s/o Ghouse Moinuddin, HDBL T/Exchange, Sindhanur for the month June 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-200	: Pay Slip of Mr. S. Arifuddin s/o S. Khaja Moinuddin Sindhanur for the month March 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-211	: Pay Slip of Mr. Muneer Basha s/o Ghouse Moinuddin, HDBL T/Exchange, Sindhanur for the month July 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-201	: Pay Slip of Mr. S. Arifuddin s/o S. Khaja Moinuddin Sindhanur for the month April 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-212	: Pay Slip of Mr. Muneer Basha s/o Ghouse Moinuddin, HDBL T/Exchange, Sindhanur for the month August 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-202	: Pay Slip of Mr. S. Arifuddin s/o S. Khaja Moinuddin Sindhanur for the month May 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-213	: Pay Slip of Mr. Muneer Basha s/o Ghouse Moinuddin, HDBL T/Exchange, Sindhanur for the month September 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-203	: Pay Slip of Mr. S. Arifuddin s/o S. Khaja Moinuddin Sindhanur for the month June 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-214	: Pay Slip of Mr. Muneer Basha s/o Ghouse Moinuddin, HDBL T/Exchange, Sindhanur for the month October 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-204	: Pay Slip of Mr. Muneer Basha s/o Ghouse Moinuddin, HDBL T/Exchange, Sindhanur for the month December 2008—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-215	: Pay Slip of Mr. Muneer Basha s/o Ghouse Moinuddin, HDBL T/Exchange, Sindhanur for the month November 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-205	: Pay Slip of Mr. Muneer Basha s/o Ghouse Moinuddin, HDBL T/Exchange, Sindhanur for the month January 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-216	: Pay Slip of Mr. Muneer Basha s/o Ghouse Moinuddin, HDBL T/Exchange, Sindhanur for the month December 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-206	: Pay Slip of Mr. Muneer Basha s/o Ghouse Moinuddin, HDBL T/Exchange, Sindhanur for the month February 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-217	: Pay Slip of Mr. Muneer Basha s/o Ghouse Moinuddin, HDBL T/Exchange, Sindhanur for the month January 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-207	: Pay Slip of Mr. Muneer Basha s/o Ghouse Moinuddin, HDBL T/Exchange, Sindhanur for the month May 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-218	: Pay Slip of Mr. Muneer Basha s/o Ghouse Moinuddin, HDBL T/Exchange, Sindhanur for the month February 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-208	: Pay Slip of Mr. Muneer Basha s/o Ghouse Moinuddin, HDBL T/Exchange, Sindhanur for the month March 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency		

Ex W-219	: Pay Slip of Mr. Muneer Basha s/o Ghouse Moinuddin, HDBL T/Exchange, Sindhanur for the month March 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-229	: Pay Slip of Mr. Mariyappa s/o Venkappa, SDE Group, Sindhanur for the month November 2008 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-220	: Pay Slip of Mr. Muneer Basha s/o Ghouse Moinuddin, HDBL T/Exchange, Sindhanur for the month April 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-230	: Pay Slip of Mr. Mariyappa s/o Venkappa, SDE Group, Sindhanur for the month August 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-221	: Pay Slip of Mr. Muneer Basha s/o Ghouse Moinuddin, HDBL T/Exchange, Sindhanur for the month May 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-231	: Pay Slip of Mr. Mariyappa s/o Venkappa, SDE Group, Sindhanur for the month September 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-222	: Pay Slip of Mr. Muneer Basha s/o Ghouse Moinuddin, HDBL T/Exchange, Sindhanur for the month June 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-232	: Pay Slip of Mr. Mariyappa s/o Venkappa, SDE Group, Sindhanur for the month October 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-223	: Letter No. 261849/Cash/20062007/HBL03/361/1823/RL No. 117 dated 14.09.2006 issued by Employees Provident Fund Organisation, Hubli with regard to Sri Mariyappa s/o Venkappa	Ex W-233	: Pay Slip of Mr. Mariyappa s/o Venkappa, SDE Group, Sindhanur for the month November 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex. W-224	: Letter No. 261848/Cash/20062007/HBL03/362/1838/RL No. 117 dated 14.09.2006 issued by Employees Provident Fund Organisation, Hubli with regard to Sri Mariyappa s/o Venkappa	Ex W-234	: Pay Slip of Mr. Mariyappa s/o Venkappa, SDE Group, Sindhanur for the month December 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-225	: Form 3A — Provident Fund contribution statement issued by Employees Provident Fund Organisation with regard to Sri Mariyappa s/o Venkappa for the period March paid in April 2007 to February paid in March 2008	Ex W-235	: Pay Slip of Mr. Mariyappa s/o Venkappa, SDE Group, Sindhanur for the month January 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-226	: Form 3A — Provident Fund contribution statement issued by Employees Provident Fund Organisation with regard to Sri Mariyappa s/o Venkappa for the period March paid in April 2006 to February paid in March 2007	Ex W-236	: Pay Slip of Mr. Mariyappa s/o Venkappa, SDE Group, Sindhanur for the month February 2010 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-227	: Employees Provident Fund Organisation — Form for allotment of National Social Security Number (NSSF) No. 24301290406 with regard to Sri Mariyappa s/o Venkappa	Ex W-237	: Pay Slip of Mr. Mariyappa s/o Venkappa, SDE Group, Sindhanur for the month March 2010 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-228	: Pay Slip of Mr. Mariyappa s/o Venkappa, SDE Group, Sindhanur for the month February 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-238	: Pay Slip of Mr. Mariyappa s/o Venkappa, SDE Group, Sindhanur for the month April 2010 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
		Ex W-239	: Pay Slip of Mr. Mariyappa s/o Venkappa, SDE Group, Sindhanur for the month May 2010 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency

Ex W-240	: Pay Slip of Mr. Mariyappa s/o Venkappa, SDE Group, Sindhanur for the month June 2010 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Doddameti Up Keep Services & Security Agency
Ex W-241	: Pay Slip for the month November 2008 for all the up keep persons of Sindhanur Section, Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-251 : Pay Slip of Mr. Syed Baji Sheed s/o Kasim Sab, SDE Group, Sindhanur for the month September 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-242	: Pay Slip of Mr. Syed Baji Sheed s/o Kasim Sab, SDE Group, Sindhanur for the month December 2008 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-252 : Pay Slip of Mr. Syed Baji Sheed s/o Kasim Sab, SDE Group, Sindhanur for the month October 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-243	: Pay Slip of Mr. Syed Baji Sheed s/o Kasim Sab, SDE Group, Sindhanur for the month January 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-253 : Pay Slip of Mr. Syed Baji Sheed s/o Kasim Sab, SDE Group, Sindhanur for the month November 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-244	: Pay Slip of Mr. Syed Baji Sheed s/o Kasim Sab, SDE Group, Sindhanur for the month February 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-254 : Pay Slip of Mr. Syed Baji Sheed s/o Kasim Sab, SDE Group, Sindhanur for the month December 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-245	: Pay Slip of Mr. Syed Baji Sheed s/o Kasim Sab, SDE Group, Sindhanur for the month March 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-255 : Pay Slip of Mr. Syed Baji Sheed s/o Kasim Sab, SDE Group, Sindhanur for the month January 2010 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-246	: Pay Slip of Mr. Syed Baji Sheed s/o Kasim Sab, SDE Group, Sindhanur for the month April 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-256 : Pay Slip of Mr. Syed Baji Sheed s/o Kasim Sab, SDE Group, Sindhanur for the month February 2010 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-247	: Pay Slip of Mr. Syed Baji Sheed s/o Kasim Sab, SDE Group, Sindhanur for the month May 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-257 : Pay Slip of Mr. Syed Baji Sheed s/o Kasim Sab, SDE Group, Sindhanur for the month March 2010 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-248	: Pay Slip of Mr. Syed Baji Sheed s/o Kasim Sab, SDE Group, Sindhanur for the month June 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-258 : Pay Slip of Mr. Syed Baji Sheed s/o Kasim Sab, SDE Group, Sindhanur for the month May 2010 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-249	: Pay Slip of Mr. Syed Baji Sheed s/o Kasim Sab, SDE Group, Sindhanur for the month July 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-259 : Pay Slip of Mr. Syed Baji Sheed s/o Kasim Sab, SDE Group, Sindhanur for the month June 2010 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-250	: Pay Slip of Mr. Syed Baji Sheed s/o Kasim Sab, SDE Group, Sindhanur for the month August 2009 — Agency: Sri Chandappa,	Ex W-260 : Pay Slip for the month November 2008 for all the up keep persons of Sindhanur Section, Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency

Ex W-261	: Pay Slip of Mr. M. Nagaraj s/o Duragappa, BKL T/Exchange, Sindhanur for the month December 2008 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-271	: Pay Slip of Mr. M. Nagaraj s/o Duragappa, BKL T/Exchange, Sindhanur for the month October 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-262	: Pay Slip of Mr. M. Nagaraj s/o Duragappa, BKL T/Exchange, Sindhanur for the month January 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-272	: Pay Slip of Mr. M. Nagaraj s/o Duragappa, BKL T/Exchange, Sindhanur for the month November 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-263	: Pay Slip of Mr. M. Nagaraj s/o Duragappa, BKL T/Exchange, Sindhanur for the month February 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-273	: Pay Slip of Mr. M. Nagaraj s/o Duragappa, BKL T/Exchange, Sindhanur for the month December 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-264	: Pay Slip of Mr. M. Nagaraj s/o Duragappa, BKL T/Exchange, Sindhanur for the month March 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-274	: Pay Slip of Mr. M. Nagaraj s/o Duragappa, BKL T/Exchange, Sindhanur for the month January 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-265	: Pay Slip of Mr. M. Nagaraj s/o Duragappa, BKL T/Exchange, Sindhanur for the month April 2009 — Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-275	: Pay Slip of Mr. M. Nagaraj s/o Duragappa, BKL T/Exchange, Sindhanur for the month February 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-266	: Pay Slip of Mr. M. Nagaraj s/o Duragappa, BKL T/Exchange, Sindhanur for the month May 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-276	: Pay Slip of Mr. M. Nagaraj s/o Duragappa, BKL T/Exchange, Sindhanur for the month March 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-267	: Pay Slip of Mr. M. Nagaraj s/o Duragappa, BKL T/Exchange, Sindhanur for the month June 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-277	: Pay Slip of Mr. M. Nagaraj s/o Duragappa, BKL T/Exchange, Sindhanur for the month April 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-268	: Pay Slip of Mr. M. Nagaraj s/o Duragappa, BKL T/Exchange, Sindhanur for the month July 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-278	: Pay Slip of Mr. M. Nagaraj s/o Duragappa, BKL T/Exchange, Sindhanur for the month May 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-269	: Pay Slip of Mr. M. Nagaraj s/o Duragappa, BKL T/Exchange, Sindhanur for the month August 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-279	: Pay Slip of Mr. M. Nagaraj s/o Duragappa, BKL T/Exchange, Sindhanur for the month June 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-270	: Pay Slip of Mr. M. Nagaraj s/o Duragappa, BKL T/Exchange, Sindhanur for the month September 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-280	: Pay Slip for the month November 2008 for all the up keep persons of Sindhanur Section, Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency

Ex W-281	: Pay Slip of Mr. B. Goutam s/o Jeevaraj Bepari, SMLP T/Exchange, Sindhanur for the month December 2008—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-291	: Pay Slip of Mr. B. Goutam s/o Jeevaraj Bepari, SMLP T/Exchange, Sindhanur for the month September 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-282	: Pay Slip of Mr. B. Goutam s/o Jeevaraj Bepari, SMLP T/Exchange, Sindhanur for the month January 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-292	: Pay Slip of Mr. B. Goutam s/o Jeevaraj Bepari, SMLP T/Exchange, Sindhanur for the month October 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-283	: Pay Slip of Mr. B. Goutam s/o Jeevaraj Bepari, SMLP T/Exchange, Sindhanur for the month February 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-293	: Pay Slip of Mr. B. Goutam s/o Jeevaraj Bepari, SMLP T/Exchange, Sindhanur for the month November 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-284	: Pay Slip of Mr. B. Goutam s/o Jeevaraj Bepari, SMLP T/Exchange, Sindhanur for the month March 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-294	: Pay Slip of Mr. B. Goutam s/o Jeevaraj Bepari, SMLP T/Exchange, Sindhanur for the month December 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-285	: Pay Slip of Mr. B. Goutam s/o Jeevaraj Bepari, SMLP T/Exchange, Sindhanur for the month April 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-295	: Pay Slip of Mr. B. Goutam s/o Jeevaraj Bepari, SMLP T/Exchange, Sindhanur for the month January 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-286	: Pay Slip of Mr. B. Goutam s/o Jeevaraj Bepari, SMLP T/Exchange, Sindhanur for the month May 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-296	: Pay Slip of Mr. B. Goutam s/o Jeevaraj Bepari, SMLP T/Exchange, Sindhanur for the month February 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-287	: Pay Slip of Mr. B. Goutam s/o Jeevaraj Bepari, SMLP T/Exchange, Sindhanur for the month June 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-297	: Pay Slip of Mr. B. Goutam s/o Jeevaraj Bepari, SMLP T/Exchange, Sindhanur for the month March 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-288	: Pay Slip of Mr. B. Goutam s/o Jeevaraj Bepari, SMLP T/Exchange, Sindhanur for the month June 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-298	: Pay Slip of Mr. B. Goutam s/o Jeevaraj Bepari, SMLP T/Exchange, Sindhanur for the month April 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-289	: Pay Slip of Mr. B. Goutam s/o Jeevaraj Bepari, SMLP T/Exchange, Sindhanur for the month July 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-299	: Pay Slip of Mr. B. Goutam s/o Jeevaraj Bepari, SMLP T/Exchange, Sindhanur for the month May 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-290	: Pay Slip of Mr. B. Goutam s/o Jeevaraj Bepari, SMLP T/Exchange, Sindhanur for the month August 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-300	: Pay Slip for the month November 2008 for all the up keep persons of Sindhanur Section, Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency

Ex W-301 : Pay Slip of Mr. Abdul Rahim, TRVL T/Exchange, Sindhanur for the month January 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-312 : Pay Slip of Mr. Abdul Rahim, TRVL T/Exchange, Sindhanur for the month January 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-302 : Pay Slip of Mr. Abdul Rahim, TRVL T/Exchange, Sindhanur for the month March 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-313 : Pay Slip of Mr. Abdul Rahim, TRVL T/Exchange, Sindhanur for the month February 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-303 : Pay Slip of Mr. Abdul Rahim, TRVL T/Exchange, Sindhanur for the month April 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-314 : Pay Slip of Mr. Abdul Rahim, TRVL T/Exchange, Sindhanur for the month March 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-304 : Pay Slip of Mr. Abdul Rahim, TRVL T/Exchange, Sindhanur for the month May 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-314 : Pay Slip of Mr. Abdul Rahim, TRVL T/Exchange, Sindhanur for the month April 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-305 : Pay Slip of Mr. Abdul Rahim, TRVL T/Exchange, Sindhanur for the month June 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-315 : Pay Slip of Mr. Abdul Rahim, TRVL T/Exchange, Sindhanur for the month May 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-306 : Pay Slip of Mr. Abdul Rahim, TRVL T/Exchange, Sindhanur for the month July 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-316 : Pay Slip of Mr. Abdul Rahim, TRVL T/Exchange, Sindhanur for the month June 2010—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency
Ex W-307 : Pay Slip of Mr. Abdul Rahim, TRVL T/Exchange, Sindhanur for the month August 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	Ex W-317 : Letter issued by the BSNL with regard to list of contractors discharged contract in Raichur circle (Issued on application filed under RTI Act).
Ex W-308 : Pay Slip of Mr. Abdul Rahim, TRVL T/Exchange, Sindhanur for the month September 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	नई दिल्ली, 17 फरवरी, 2014
Ex W-309 : Pay Slip of Mr. Abdul Rahim, TRVL T/Exchange, Sindhanur for the month October 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	का.आ. 868.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टेलिकॉम डिस्ट्रिक्ट मैनेजर, भारत संचार निगम लिमिटेड, सिंधुदुर्ग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2, मुम्बई के पंचाट (संदर्भ संख्या सीजीआईटी-2/26 of 2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 17/02/2014 को प्राप्त हुआ था।
Ex W-310 : Pay Slip of Mr. Abdul Rahim, TRVL T/Exchange, Sindhanur for the month November 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	[सं. एल-40011/20/2004-आईआर(डीयू)] पी. के. वेणुगोपाल, अनुभाग अधिकारी
Ex W-311 : Pay Slip of Mr. Abdul Rahim, TRVL T/Exchange, Sindhanur for the month December 2009—Agency: Sri Chandappa, Doddameti Up Keep Services & Security Agency	New Delhi, the 17th February, 2014
	S.O. 868.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. CGIT-2/26 of 2005) of the Central Government Industrial Tribunal/Labour Court No. 2, Mumbai now as shown in the Annexure

in the Industrial Dispute between the employers in relation to the management of The Telecom District Manager, Bharat Sanchar Nigam Limited, Sindhudurg and their workmen, which was received by the Central Government on 17/02/2014.

[No. L-40011/20/2004-IR(DU)]
P.K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT

K.B. KATAKE, Presiding Officer

REFERENCE NO. CGIT-2/26 OF 2005

EMPLOYERS IN RELATION TO THE MANAGEMENT OF BHARAT SANCHAR NIGAM LTD.

The Telecom District Manager
BSNL
At Sawantwadi
Sindhudurg
M.S.

AND

THEIR WORKMEN

The Vice President
Nhava Sheva Port & General Workers' Union
Port Trust Kamgar Sadan
Nawab Tank Road
Mazgaon
Mumbai 400 010.

APPEARANCES:

FOR THE EMPLOYER : Mrs. Neeta Masurkar,
Advocate

FOR THE WORKMAN : Mr. J.H. Sawant,
Advocate

Mumbai, dated the 11th November, 2013

AWARD

The Government of India, Ministry of Labour & Employment by its Order No. L-40011/20/2004-IR(DU), dated 06.12.2004 in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the Telecom District Manager, BSNL, Sindhudurg at Sawantwadi in not regularizing the service of Sh. Gajanan Mohan Rawool, Driver is legal and justified? If not to what relief the workman is entitled for?"

2. After receipt of the reference, notices were issued to both the parties. In response to the notice, second party union filed its Statement of Claim at Ex-7. According to the union Workman Shri Gajanan Mohan Rawool is serving with the first party since 07/08/2001 as Driver. He is attending his duties which are of permanent nature. He was selected for the post of Driver after ascertaining his eligibility qualification of his post as driver. His work is satisfactory. As provided under Industrial Employment (Standing Orders) Act 1946 as well as principle of equity he is permanent workman. However the management has deprived him from giving the status and privilege of permanent workman. The management is thus guilty of unfair labour practice under I.D. Act. The first party is paying the wages to the workman at a very low rate. They are also not giving other benefits in the nature of social security measures including the benefit of provident fund, insurance, leave, bonus, medical treatment etc. Other workers including Shri Margaonkar have been permanency in the employment to the post of Driver. Whereas the same benefit and pay scale is not given to the workman who is discharging the same duties.

He has requested the management. Ultimately he raised industrial dispute before ALC (C). However the conciliation failed. Therefore ALC (C) made a report of Labour Ministry. Labour Ministry has sent the dispute to this Tribunal. The union therefore prays for declaration that action of the management in not regularising is illegal. He also prays that direction be given to the management to regularise the service of the workman as a permanent employee of the management in the capacity of Driver in the pay scale of Rs. 3200-4900 right from 07/08/2001 with all consequential benefits.

3. The first party resisted the statement of claim *vide* its Written Statement at Ex-11. According to them the union is not a registered union. The workman was also not member of the said union at the relevant time. The first party is Government undertaking. Therefore the reference is not tenable. The workman under reference was engaged for a short period for hourly driving assistance on various intermittent occasions at agreed price. It was service contract to a casual worker. Therefore the reference is not tenable and the workman is not entitled for regularisation. The dispute does not come under Section 2 (K) of the I.D. Act. The first party is Government of India undertaking. There is total ban imposed by Government for new recruitment since 1982. Therefore the Court cannot issue direction to recruit or regularise the services of the second party workman. The second party is not 'workman' as defined under Section 2 (S) of I.D. Act. He cannot be regularised for want of facing eligibility criteria. he was not possessing the same when he was engaged. An understanding was given to him that his job was of temporary nature. Therefore he is not entitled to claim regularisation. His employment was occasional engagement

without following the recruitment rules. It would amount to back door entry. Therefore his services cannot be regularised.

4. His appointment was not on regular basis. BSNL has framed Recruitment Rules for the post of regular Driver to fill up 50% of the total vacancy and remaining are to be filled up by promotion by the persons belonging to Group C & D. For all these reasons services of the workman cannot be regularised and he is not entitled for permanent employment. Therefore they pray that the reference be dismissed with cost.

5. Following are the issues for my determination. I record my findings thereon for the reasons to follow:—

Sr. No.	Issues	Findings
1.	Whether the second party is a 'workman' and whether there exist employer-employee relationship between them?	Yes.
2.	Whether there exists an industrial dispute?	Yes.
3.	Whether the services of the workman under reference can be regularised as permanent workmen?	Yes.

REASONS

Issue No. 1 & 2:-

6. As both these issues are interlinked, in order to avoid repetition of discussion they are discussed and decided simultaneously. On the point of inter-se relationship the first party contended that the workman is not their employee. Therefore according to them, neither he is workman nor there exist industrial dispute. According to them the second party workman was engaged as and when required for and on hourly basis as a daily wager Driver. They have also contended that the workman was engaged as contract worker. Therefore their exists no employer-employee relationship between them. It is further contended that the workman was not recruited by following the recruitment process prescribed therefore. Therefore neither he can be called employee of the first party nor can be absorbed in the service. In support of her argument the Ld. Adv. for the first party resorted to Apex Court ruling in Secretary State of Karnataka & Ors. V/s. Uma Devi & Ors. (2006) 4 SCC 1 wherein in para 34 of the judgement on the point the Hon'ble Court observed that:

"Therefore consistent with the scheme for public employment, this Court while laying down the law has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a

contractual appointment the appointment comes to an end at the end of the contract. If it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules."

7. The Ld. Adv. for the first party also resorted to another Supreme Court ruling on the point in Accounts Officer (A and I) APSRTC & Ors. V/s. K.V. Ramana & Ors. AIR 2007 SC 1166 wherein the Hon'ble Court in para 7 of the judgement observed that;

"Even if contract labourers or casual workers or ad-hoc employees have worked for a long period, they cannot be regularised de hors the rules for selection as has been held in Uma Devi's case."

8. The Ld. Adv. for the first party also cited another Apex Court ruling in B.S. Minhas V/s. Indian Statistical Institute (1983) 4 SCC 582 wherein on the point the Hon'ble Court observed that;

"If the appointment itself is in infraction of the rules or if it is in violations of the provisions of the Constitution, illegality cannot be regularised. Ratification or regularisation is possible of an act which is within the power and province of the authority, but there has been some non-compliance with procedure or manner which does not go to the root of the appointment. Regularisation cannot be said to be mode of recruitment."

9. The Ld. Adv. for the first party also cited another Apex Court ruling in B.N. Nagarajan & Ors. V/s. State of Karnataka & Ors. AIR 1979 SC 1676 wherein Hon'ble Court on the point of regularisation held that, when rules framed under Article 209 of the Constitution of India are enforced, no regularisation is permissible in exercise of executive powers under Article 167 of the constitution in contravention of the rules. The Hon'ble Court in this respect further held that, only something that is irregular for want of compliance with one of the elements in the process of selection which does not go to the root of the process can be regularised. The Ld. Adv. further argued that once it is held that the workman is not employee of the first party, irresistible conclusion that follows is that, the Tribunal had no jurisdiction to entertain this dispute and the same deserved to be dismissed.

10. In this respect the Ld. Adv. for the second party submitted that, the workman was called for and selected for the post of Driver after ascertaining his eligibility and qualification for the said post. According to him he was appointed *w.e.f.* 7/8/2001 and since then he was driving the vehicles of the first party. The Ld. Adv. further submitted that the workman is very poor person and working sincerely with the first party for a meagre amount of wages. The workman has contended in para 8 of his cross examination that advertisement was published, mentioning about new vehicle and requirement of a new drive for the driver for the said vehicle. He further says that he applied with the first party as per the said advertisement. The Ld. Adv. pointed out that the workman has neither maintained the o/c of the application nor kept with him the paper of advertisement. That does not mean that he was not recruited and appointed for the post of driver. In his cross examination in para 8 of Ex-20 the workman has also contended that driving test was taken while selecting him.

11. In this respect the Ld. Adv. for second party pointed out that, the workman has produced the log book of the vehicle to show that he was worked with the first party as a Driver since 2001 continuously. The Ld. Adv. pointed out that 2004 the workman was working as direct employee of the first party. In 2004 the first party introduced contractor. However the workman has denied the suggestion that he was simply contract worker of Anand Shraddha Contractor. In this respect the Ld. Adv. submitted that the first party who is a Govt. undertaking is taking disadvantage of poverty and ignorance of the poor people. He submitted that there was advertisement. In response thereto workman has applied for the post of Driver. He was called for interview. His driving test was taken. He was selected and appointed as a Driver. Due to poverty and ignorance neither he maintained any document nor first party has given any document to him. In this respect I would like to point out that the plea and evidence of the second party is consistent. As against this the case of the first party is not consistent. It is pleaded in the written statement that the second party workman was engaged on hourly and as and when required basis. They also contended that since 2004 the workman is a contract worker. In his cross examination at Ex-20 it was suggested that he has not worked since 2001 continuously. The workman has denied the said suggestion. In his cross examination the workman says that driving test was taken before selecting him. He further says that he has no proof on that point.

13. In this respect I would like to point out that while appointing a technical person like Driver, it is quite obvious for the employer to take his driving test. At least driver is not expected to be appointed without driving test. The workman is poor and poorly literate person, who was working with the first party for a very meagre amount to meet the two ends. He is working as a Driver since 2001. From his evidence and the reply in his cross examination it

appears that he was selected by the competent authority as a Driver and was working with the first party since 2001. Neither any appointment order was given to him nor he has maintained any document except the copy of log book. There is no reason to doubt the copy of log book the workman has produced, to show that he was working with the first party. In the circumstances it cannot be said that the workman was engaged on hourly basis and as and when required for. It appears that there was advertisement. The workman had applied and was called for. His interview and driving test was taken. After examining his capability as a driver, he was appointed in the year 2001. It appears that after 2003 the first party seems to have played mischief and called tenders and since 2004 the workman was shown as a contract worker. Apparently it is seen that the service contract was bogus and mere camouflage to deprive the workman from getting the benefit of permanency. It amounts to unfair labour practice by the management. Furthermore the workman has worked continuously for more than 240 days in a calendar year and his services cannot be terminated without following the procedure laid down under Section 25 F of the Industrial Disputes Act. He gets protection of 25 F of I.D. Act. The management has not followed the condition laid down thereunder.

14. In the circumstances I hold that the rulings referred herein above by the Ld. Adv. of the first party are not attracted to the set of facts of the present case as it is seen that the workman was duly appointed by the first party. In case any irregularity it would not come in his way as has been observed by Hon'ble Court in the last ruling referred here in above.

15. It appears that the officials of the first party have taken disadvantage of the need, ignorance and poverty of the workman. It is exploitation of poor class, as workman was working for meagre amount to meet the two ends and it is for years together. It is one of the reasons, poor becoming poorer in our country. Recently Hon'ble Apex Court has also taken serious note of such type of exploitation of poor class in our country. On the point the Ld. Adv. for the second party referred the said Apex Court ruling in *Bhilwara Dugdh Utpadhak Sahakari S. Ltd. V/s. Vinod Kumar Sharma & Ors.* 2011 III CLR 386 (SC) wherein the Hon'ble Court has taken care of all such circumstances and observed that;

"Labour Statutes were meant to protect the employees/workman because it was realised that the employers and the employees are not on an equal bargaining position. Hence protection of employees was required so that they may not be exploited. However this new technique of subterfuge has been adopted by some employers in recent years in order to deny the rights of workmen under various labour statutes by showing that the concerned workmen are not their employees but are the employees/workmen

of a contractor, or that they are merely daily wage or short term or casual employees. When infact they are doing the work of regular employees. This court cannot countenance such practice anymore. Globalisation/liberalisation in the name of growth cannot be at the human cost of exploitation of workers."

16. In the case at hand the version of the first party is unacceptable that the workman was casual worker engaged on hourly and as and when required basis. The version of the first party is also not acceptable that the workman was a contract worker since 2004. It appears that the workman is working with the first party as a Driver since 2001. Though he was selected and appointed as Driver they had not given him the wages of the regular driver. It cannot be said that he was appointed without following the procedure. He had worked for about 3 years for meagre amount. The work of Driver cannot be said casual or temporary. It is work of permanent nature. The workman says in his evidence that there was advertisement. He had applied and was called for interview. His driving test was taken there after he was selected for the post. There is no reason to discard the version of the workman, especially as he has worked for more than 3 years. In the circumstances I hold that the workman was recruited by the first party as a Driver. He had worked continuously for about 3 years with the first party. In the light of above Apex Court ruling I hold that the workman is entitled to be regularised in the service. Accordingly I decide the issue no. 1 in the affirmative that the second party is a workman and there exist employer employee relationship between the parties. As a result I also decide the issue No. 2 in the affirmative that, there exist industrial dispute. In the light of the above discussion I also decide issue No. 3 in the affirmative that, the workman is entitled to be regularised in the service of the first party as driver. Thus I pass the following order.

ORDER

The reference is allowed with no order as to cost.

1. The action of the management is not regularising the services of the workman is hereby declared illegal and improper.

2. The management is directed to regularise the services of workman after the probation period of 2 years from the date of his initial date of appointment on 07/08/2001 and give him pay and allowances at par with regular employees with all consequential benefits.

3. Management is directed to pay the difference in pay and allowance from the date of his regularisation *i.e.* from 06/08/2003 till this date.

Date: 11/11/2013

K.B. KATAKE, Presiding Officer

नई दिल्ली, 17 फरवरी, 2014

का०आ० 869.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टेलिकॉम डिस्ट्रिक्ट मैनेजर, भारत संचार निगम लिमिटेड, सिंधुदुर्ग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2 मुम्बई के पंचाट (संदर्भ संख्या CGIT-2/4 of 2005) को प्रकाशित करती है। जो केन्द्रीय सरकार को 17/2/2014 को प्राप्त हुआ था।

[सं० एल०-42025/07/2014-आई० आर० (डी यू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 17th February, 2014

S.O. 869.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT-2/4 of 2005) of the Central Government Industrial Tribunal/Labour Court, No. 2, Mumbai now as shown in the Annexure in the Industrial dispute between the employers in relation to the management of The Telecom District Manager, Bharat Sanchar Nigam Limited, Sindhudurg and their workman, which was received by the Central Goernment on 17/2/2014.

[No. L-42025/07/2014-IR (DU)]

P.K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, MUMBAI

PRESENT:

K. B. KATAKE, Presiding Officer

COMPLAINT No. CGIT-2/4 OF 2005

(Arising out of Ref. CGIT-2/26 of 2005)

Nhava Sheva Port & General Workers Union
Port Trust Kamgar Sadan
Nawab Tank Road
Mazgaon
Mumbai-400 010.

...Complainant

V/s.

The Telecom District Manager
Bharat Sanchar Nigam Ltd.
At Post- Tal. Sawantwadi
Distt. Sindhudurg
Maharashtra-416510

...Opponent

APPEARANCES:

For the Complainant Mr. J.H. Sawant,
Advocate.

For the Opponent Mrs. Neeta Masurkar,
Advocate.

Mumbai, dated the 30th December, 2013

AWARD

1. This complaint is filed by the complainant union against the Telecom District Manager, Bharat Shanchar Nigam Ltd., Sawantwadi, Distt. Sindhudurg under Section 33-A of the Industrial Disputes Act, 1947. According to the complainant, *Ref.* CGIT_2\26 of 2005 is pending before the Tribunal. During pendency of the dispute before ALC, Vaso-da-Gama the opponent unlawfully changed the service conditions of the workman and compelled him to work through contractor M/s. Anand Shraddha Enterprises from May 2004 onwards. The said contract agreement is sham, bogus and mere camouflage to deprive the workman of his right to permanency in the employment of the opponent. They refused the work and wages to the workman *w.e.f.* 1/7/2005. The union by its letter dt. 2/7/2005 requested the opponent to refrain from such unfair, unlawful practice. However opponent failed to follow the provisions of law. Therefore union has filed the complaint and prays for declaration that the respondent is guilty under Section 33 of I.D. Act and liable for severe punishment as provided under Section 33 of the I.D. Act and also prays that workman be treated in continuous service with all consequential benefits.

2. The Opponent management resisted the application vide its say at Ex-7. According to them the Nhava Sheva Port Union, Mumbai has no *locus standi* to raise industrial dispute in the matter. The complaint is false, frivolous and vicious and not tenable under Section 33 of the I.D. Act. According to the management the workman was employee of the contractor M/s. Anand Shraddha Enterprises. His contract was continued with opponent till 1/7/2005. Thereafter it was the responsibility of the contractor to provide work to his employees. In short according to the opponent the complainant workman was not their employee and he was the employee of the contractor. Therefore the complaint against the opponent is not tenable. They denied that they have changed the service conditions of the workman and compelled him to receive salary through contractor M/s. Anand Shraddha Enterprises from May 2004. They also denied that they refused the work and wages to the workman from 1/7/2005 as has been alleged. They denied all the allegations in the complaint and pray that the complaint be dismissed with cost.

3. Following are the points for my determination. I record my findings thereon for the reasons to follow:

Sl. No.	Points	Findings
1.	Whether the complainant has proved that the opponent has altered the terms of the services of the workman in question during pendency of the industrial dispute?	Yes
2.	What order?	As per order below.

REASONS**Points no.1:—**

4. In this respect I would like to point out that, reference between these parties was pending before this Tribunal bearing No. Ref.CGIT-2/26 of 2005. It was decided in the last month and the award is sent to the Labour Ministry for publication. In the award this Tribunal held that, there exists employer-employee relationship between the parties. The reference was allowed and the management was directed to regularize the services of the workman. The version of the opponent in respect of their relationship is totally unacceptable as while passing the award it is held that the workman was working as the employee of the first part since 7/8/2001. Admittedly the dispute was before ALC(C) when the workman was directed to work under the contractor and they had also refused the work and wages *w.e.f.* 1/7/2005 when dispute was pending before this Tribunal. No doubt, it amount to violation of Section 33 of the I.D. Act. Thus it needs no further discussion to arrive me at the conclusion that the opponent management is guilty of unfair labour practice. Accordingly I decide this Point No. 1 in the affirmative and proceed to pass the following order:

ORDER

- (i) The change of service conditions of the workman during pendency of dispute before the Labour Commissioner was in contravention of Section 33-A of the Industrial Disputes Act.
- (ii) The opponent management is held guilty for unfair labour practice.

Dated: 30.12.2013 K.B. KATAKE, Presiding Officer

नई दिल्ली, 17 फरवरी, 2014

का.आ. 870.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में केन्द्रीय सरकार टेलिकॉम डिस्ट्रिक्ट मैनेजर, भारत संचार निगम लिमिटेड, सिंधुदुर्ग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2, मुम्बई के पंचाट (संदर्भ संख्या CGIT-2/3 of 2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 17/02/2014 को प्राप्त हुआ था।

[सं. एल-42025/07/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 17th February, 2014

S.O. 870.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. CGIT-2/3 of 2005) of the Central Government Industrial Tribunal/Labour Court No. 2, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers

in relation to the management of The Telecom District Manager, Bharat Sanchar Nigam Limited, Sindhudurg and their workmen, which was received by the Central Government on 17/02/2014

[No.L- 42025/07/2014-IR(DU)]
P.K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT

K.B. KATAKE, Presiding Officer

COMPLAINT NO. CGIT-2/3 OF 2005

(Arising out of Ref. CGIT-2/25 of 2005)

Nhava Sheva Port & General Workers Union
Port Trust Kamgar Sadan
Nawab Tank Road
Mazgaon
Mumbai-400 010 : ...Complainant
V/s.

The Telecom District Manager
Bharat Sanchar Nigam Ltd.
At Post-Tal. Sawantwadi
Distt. Sindhudurg
Maharashtra-416 510 : ...Opponent.

APPEARANCES:

For the Complainant : Mr. J. H. Sawant,
Advocate
For the Opponent Mrs. Neeta Masurkar,
Advocate

Mumbai, dated the 30th December, 2013

AWARD

1. This complaint is filed by the complainant union against the Telecom District Manager, Bharat Sanchar Nigam Ltd., Sawantwadi, Distt. Sindhudurg under Section 33-A of the Industrial Disputes Act, 1947. According to the complainant, Ref. CGIT-2/25 of 2005 is pending before the Tribunal. During pendency of the dispute before ALC, Vaso-da-Gama the opponent unlawfully changed the service conditions of the workman and compelled him to work through contractor M/s. Anand Shraddha Enterprises from May 2004 onwards. The said contract agreement is sham, bogus and mere camouflage to deprive the workman of his right to permanency in the employment of the opponent. They refused the work and wages to the workman w.e.f. 1/7/2005. The union by its letter dt. 2/7/2005 requested the opponent to refrain from such unfair, unlawful practice. However opponent failed to follow the

provisions of law. Therefore union has filed the complaint and prays for declaration that the respondent is guilty under Section 33 of I.D. Act and liable for severe punishment as provided under Section 33 of the I.D. Act and also prays that workman be treated in continuous service with all consequential benefits.

2. The Opponent management resisted the application vide its say at Ex-7. According to them the Nhava Sheva Port Union, Mumbai has no *locus standi* to raise industrial dispute in the matter. The complaint is false, frivolous and vicious and not tenable under Section 33 of the I.D. Act. According to the management the workman was employee of the contractor M/s. Anand Shraddha Enterprises. His contract was continued with the opponent till 1/7/2005. Thereafter it was the responsibility of the contractor to provide work to his employees. In short according to the opponent the complainant workman was not their employee and he was the employee of the contractor. Therefore the complaint against the opponent is not tenable. They denied that they have changed the service conditions of the workman and compelled him to receive salary through contractor M/s. Anand Shraddha Enterprises from May 2004. They also denied that they refused the work and wages to the workman from 1/7/2005 as has been alleged. They denied all the allegations in the complaint and pray that the complaint be dismissed with cost.

3. Following are the points for my determination. I record my findings thereon for the reasons to follow:

Sl. No.	Points	Findings
1.	Whether the complainant has proved that the opponent has altered the terms of the services of the workman in question during pendency of the industrial dispute?	Yes.
2.	What order?	As per order below.

REASONS

Points No. 1:—

4. In this respect I would like to point out that reference between these parties was pending before this Tribunal bearing no. Ref. CGIT-2/25 of 2005. It was decided in the last month and the award is sent to the Labour Ministry for publication. In the award this Tribunal held that, there exists employer-employee relationship between the parties. The reference was allowed and the management was directed to regularize the services of the workman. The version of the opponent in respect of their relationship is totally unacceptable as while passing the award it is held that the workman was working as the employee of the first party since 22/07/2002. Admittedly the dispute was before ALC (C) when the workman was directed to work under the contractor and they had also refused the work and wages

w.e.f. 1/7/2005 when dispute was pending before this Tribunal. No doubt, it amount to violation of Section 33 of the I.D. Act. Thus it needs no further discussion to arrive me at the conclusion that the opponent management is guilty of unfair labour practice. Accordingly I decide this Point No. 1 in the affirmative and proceed to pass the following order:

ORDER

- (i) The change of service conditions of the workman during pendency of dispute before the Labour Commissioner was in contravention of Section 33-A of the Industrial Disputes Act,
- (ii) The opponent management is held guilty for unfair labour practice.

Date: 30.12.2012 K.B. KATAKE, Presiding Officer

नई दिल्ली, 17 फरवरी, 2014

का.आ. 871.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टेलिकॉम डिस्ट्रिक्ट मैनेजर, भारत संचार निगम लिमिटेड, सिंधुदुर्ग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2, मुम्बई के पंचाट (संदर्भ संख्या सीजीआईटी-2/2 का 2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 17/02/2014 को प्राप्त हुआ था।

[सं एल-42025/07/2014-IR(DU)]

पी०के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 17th February, 2014

S.O. 871.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. CGIT-2/2 of 2005) of the Central Government Industrial Tribunal/Labour Court No. 2, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Telecom District Manager, Bharat Sanchar Nigam Limited, Sindhudurg and their workmen, which was received by the Central Government on 17/02/2014

[No.L-42025/07/2014-IR(DU)]

P.K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT

K.B. KATAKE, Presiding Officer

COMPLAINT NO. CGIT-2/2 OF 2005

(Arising out of Ref. CGIT-2/24 of 2005)

Nhava Sheva Port & General Workers Union
Port Trust Kamgar Sadan
Nawab Tank Road
Mazgaon
Mumbai-400 010.

...Complainant

V/s.

The Telecom District Manager
Bharat Sanchar Nigam Ltd.
At Post-Tal. Sawantwadi
Distt. Sindhudurg
Maharashtra-416 510.

...Opponent

APPEARANCES:

For the complainant : Mr. J.H. Sawant,
Advocate.

For the Opponent : Mrs. Neeta Masurkar,
Advocate

Mumbai, dated the 30th December, 2013

AWARD

1. The complaint is filed by the complainant union against the Telecom District Manager, Bharat Sanchar Nigam Ltd., Sawantwadi, Distt. Sindhudurg under Section 33-A of the Industrial Disputes Act, 1947. According to the complainant, Ref. CGIT-2/24 of 2005 is pending before the Tribunal. During pendency of the dispute before ALC, Vaso-da-Gama the opponent unlawfully changed the service conditions of the workman and compelled him to work through contractor M/s. Anand Shraddha Enterprises from May 2004 onwards. The said contract agreement is sham, bogus and mere camouflage to deprive the workman of his right to permanency in the employment of the opponent. They refused the work and wages to the workman w.e.f. 1/7/2005. The union by its letter dt. 2/7/2005 requested the opponent to refrain from such unfair, unlawful practice. However opponent failed to follow the provisions of law. Therefore union has filed the complaint and prays for declaration that the respondent is guilty under Section 33 of I.D. Act and liable for severe punishment as provided under Section 33 of the I.D. Act and also prays that workman be treated in continuous service with all consequential benefits.

2. The Opponent management resisted the application vide its say at Ex-7. According to them the Nhava Sheva Port Union, Mumbai has no locus standi to raise industrial dispute in the matter. The complaint is false, frivolous and vicious and not tenable under Section 33 of the I.D. Act. According to the management the workman was employee of the contractor M/s. Anand Shraddha Enterprises. His contract was continued with the opponent till 1/7/2005. Thereafter it was the responsibility of the contractor to provide work to his employees. In short according to the opponent the complainant workman was not their employee and he was the employee of the contractor. Therefore the

complaint against the opponent is not tenable. They denied that they have changed the service conditions of the workman and compelled him to receive salary through contractor M/s. Anand Shraddha Enterprises from May 2004. They also denied that they refused the work and wages to the workman from 1/7/2005 as has been alleged. They denied all the allegations in the complaint and pray that the complaint be dismissed with cost.

3. Following are the points for my determination. I record my findings thereon for the reasons to follow:

Sr. No.	Points	Findings
1.	Whether the complainant has proved that the opponent has altered the terms of the services of the workman in question during pendency of the industrial dispute?	Yes.
2.	Waht order?	As per order below.

REASONS

Points No. 1:—

4. In this respect I would like to point out that reference between these parties was pending before this Tribunal bearing no. Ref.CGIT-2/24 of 2005. It was decided in the last month and the award is sent to the Labour Ministry for publication. In the award this Tribunal held that, there exists employer-employee relationship between the parties. The reference was allowed and the management was directed to regularize the services of the workman. The version of the opponent in respect of their relationship is totally unacceptable as while passing the award it is held that the workman was working as the employee of the first party since 04/06/1996. Admittedly the dispute was before ALC (C) when the workman was directed to work under the contractor and they had also refused the work and wages w.e.f. 1/7/2005 when dispute was pending before this Tribunal. No doubt, it amount to violation of Section 33 of the I.D. Act. Thus it needs no further discussion to arrive me at the conclusion that the opponent management is guilty of unfair labour practice. Accordingly I decide this point no. 1 in the affirmative and proceed to pass the following order:

ORDER

- (i) The change of service condition of the workman during pendency of dispute before the Labour Commissioner was in contravention of Section 33-A of the Industrial Disputes Act.
- (ii) The opponent management is held guilty for unfair labour practice.

Date: 30.12.2013

K. B. KATAKE, Presiding Officer

नई दिल्ली, 17 फरवरी, 2014

कांआ 872.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टेलिकॉम डिस्ट्रिक्ट मैनेजर, भारत संचार निगम लिमिटेड, सिंधुदुर्ग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2, मुम्बई के पंचाट (संदर्भ संख्या CGIT-2/1 of 2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 17.02.2014 को प्राप्त हुआ था।

[सं एल-42025/07/2014-आईआर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 17th February, 2014

S.O. 872.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT-2/1 of 2005) of the Central Government Industrial Tribunal/Labour Court No. 2, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Telecom District Manager, Bharat Sanchar Nigam Limited, Sindhudurg and their workmen, which was received by the Central Government on 17.02.2014.

[No. L-42025/07/2014-IR(DU)]

P.K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, MUMBAI

PRESENT

K.B. KATAKE,
Presiding Officer

COMPLAINT NO. CGIT-2/1 OF 2005

(Arising out of Ref. CGIT-2/23 of 2005)

Nhava Sheva Port & General Workers Union
Port Trust Kamgar Sadan
Nawab Tank Road
Mazgaon
Mumbai-400010

.....Complainant

V/s

The Telecom District Manager
Bharat Sanchar Nigam Ltd.
At Post-Tal. Sawantwadi
Distt. Sindhudurg
Maharashtra-416510

.....Opponent

APPEARANCES:

For the Complainant : Mr. J. H. Sawant,
Advocate

For the Opponent: Mrs. Neeta Masurkar,
Advocate

Mumbai, dated the 30th December, 2013

AWARD

1. This complaint is filed by the complainant union against the Telecom District Manager, Bharat Shanchar Nigam Ltd., Sawantwadi, Distt. Sindhudurg under Section 33-A of the Industrial Disputes Act, 1947. According to the complainant, Ref. CGIT-2/23 of 2005 is pending before the Tribunal. During pendency of the dispute before ALC, Vaso-da-Gama the oppoent unlawfully changed the service conditions of the workman and compelled him to work through contractor M/s. Anand Shraddha Enterprises from May, 2004 onwards. The said contract agreement is sham, bogus and mere camouflage to deprive the workman of his right of permanency in the employment of the opponent. They refused the work and wages to the workman w.e.f. 1.7.2005. The union by its letter dt. 2.7.2005 requested the opponent to refrain from such unfair, unlawful practice. However opponent failed to follow the provisions of law. Therefore union has filed the complaint and prays for declaration that the respondent is guilty under Section 33 of I.D. Act and liable for severe punishment as provided under Section 33 of the I.D. Act and also prays that workman be treated in continuous service with all consequential benefits.

2. The Opponent management resisted the application *vide* its say at Ex-7. According to them the Nhava Sheva Port Union, Mumbai has no *locus standi* to raise industrial dispute in the matter. The complaint is false, frivolous and vicious and not tenable under Section 33 of the I.D. Act. According to the management the workman was employee of the contractor M/s. Anand Shraddha Enterprises. His contract was continued with the opponent till 1.7.2005. Thereafter it was the responsibility of the contractor to provide work to his employees. In short according to the opponent the complainant workman was not their employee and he was the employee of the contractor. Therefor the complaint against the opponent is not tenable. They denied that they have changed the service conditions of the workman and compelled him to receive salary through contractor M/s. Anand Shraddha Enterprises from May, 2004. They also denied that they refused the work and wages to the workman from 1.7.2005 as has been alleged. They denied all the allegations in the complaint and pray that the complaint be dismissed with cost.

3. Following are the points for my determination. I record my findings thereon for the reasons to follow:

Sr. No.	Points	Findings
1.	Whether the complainant has proved that the opponent has altered the services conditions of the workman in question during pendency of the industrial dispute?	Yes.
2.	What order?	As per order below.

REASONS**Points No. 1:**

4. In this respect I would like to point out that reference between these parties was pending before this Tribunal bearing No. Ref. CGIT-2/23 of 2005. It was decided in the last month and the award is sent to the Labour Ministry for publication. In the award this Tribunal held that, there exists employer-employee relationship between the parties. The reference was allowed and the management was directed to regularize the services of the workman. The version of the opponent in respect of their relationship is totally unacceptable as while passing the award it is held that the workman was working as the employee of the first party since 29.8.2001. Admittedly the dispute was before A.L.C. when the workman was directed to work under the contractor and they had also refused the work and wages w.e.f. 1.7.2005 when dispute was pending before this Tribunal. No doubt, it amount to violation of Section 33 of the I.D. Act. Thus it needs no further discussion to arrive me at the conclusion that the opponent management is guilty of unfair labour practice. Accordingly I decide this point No. 1 in the affirmative and proceed to pass the following order:

ORDER

- (i) The change of service conditions of the workman during pendency of dispute before the Labour Commissioner was in contravention of Section 33-A of the Industrial Disputes Act.
- (ii) The opponent management is held guilty for unfair labour practice.

Date: 30.12.2013

K. B. KATAKE, Presiding Officer

नई दिल्ली, 18 फरवरी, 2014

का० आ० 873.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जनरल मैनेजर एण्ड अदर्स, भारत संचार निगम लिमिटेड, झांसी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 37/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 18.02.2014 को प्राप्त हुआ था।

[सं० एल-40012/193/2002-आईआर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 18th February, 2014

S.O. 873.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 37/2003) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of

The General Manager and Others, BSNL, Jhansi and their workmen, which was received by the Central Government on 18.02.2014.

[No. L-40012/193/2002-IR(DU)]

P.K. VENUGOPAL, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, LUCKNOW

PRESENT

DR. MANJU NIGAM,

Presiding Officer

I.D. No. 37/2003

Ref. No. L-40012/193/2002-IR (DU) dated: 05.03.2003

BETWEEN

The Organizing Secretary
Bhartiya Gramin Mazdoor Sangh
115/193, A-2, Maswanpur
Kanpur (U.P.) 208019
(Espousing case of Shri Bhagwan Dass & 10 others)

AND

1. The General Manager (Staff) BSNL, Chabra Building Civil, Lines, Jhansi.
2. Assistant General Manager BSNL, Jhansi.

AWARD

1. By order No. L-40012/193/2002-IR(DU) dated 05.03.2003 the Central Government in the Ministry of Labour, New Delh in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the Organizing Secretary, Bhartiya Gramin Mazdoor Sangh, 115/193, A-2, Maswanpur Kanpur and the General Manager (Staff), BSNL, Chabra Building, Civil Lines, Jhansi & Assistant Manager, BSNL, Jhansi for adjudication.

2. The referece under adjudication is:

"Whether the Action of the General Management (Staff), BSNL, Jhansi in not Regularising the Services of Sh. Bhagwan Dass S/o Sh. Ram Bhishon and 10 others (As Per List is Legal and Justified? If not to what Reliefe the Workmen are Entitled to?"

3. The case of the workman's union in brief, is that the workman, Bhagwan Dass and 10 others have been working with the BSNL, Jhansi Division since 1996-97 as Daily Rated Mazdoor @ Rs. 400/500 per month continuously, but the management is not regularizing their services and not grating them regular pay scales. It has been submitted that

the General Manager, BSNL, Jhansi has called for informations about said workmen on 19.02.2001, which was also provided to him even then nothing constructive has been done by the department, in violation to the labour laws. Accordingly, the workman's union has prayed that the management by directed to regularize the services of the workmen and they by granted pay scales as well as other facilities at par the other workmen of the same category.

4. The management of the BSNL has denied the claim of the workman's union by filing its written statement wherein it has denied any relationship of master and servant between the BSNL and the workmen as they have neither been engaged by the management at any point of time nor they are working with the opposite party, therefore their arise not question of making payment etc. to the workmen. The management has further stated that the information called for regarding part time casual labours in the year 2000 has no relationship with the workmen in the present case. Accordingly, the management has prayed that the claim of the workman's union be rejected as there exit no legal right for regularization of their services or allowing them regular pay scale.

5. The workman's union has filed rejoined; wherein it has stated that there exist a relationship of master and servant between the BSNL and the workman and has provided details of date of engagement of the workmen. It has further stated that the workmen have been working in Maruanipur Sub-division and have worked for more than 240 days in each calender year from the date of their joining. It has also stated that in this regard an advertisement was also published to recruit that class IV employee on 26.07.2002.

6. The workman's union has filed photcopy of the voluminous documents *vide* list of documents dated 06.07.2003, paper No. A1-15 list dated 05.10.2004, paper No. C-61. The union also filed original documents *vide* lists dated 16.10.2008 paper No. C-93 and C-94, list dated 15.04.2009, paper No. C-96, list dated 17.11.2009, paper No. W-100 list dated 17.11.2009, paper No. W-101, list dated 15.04.2010, paper No. W-104. In rebuttal the management filed photocopy of documents *vide* list dated 22.08.2003 paper No. C-29. It also filed original documents *vide* dated 16.03.2004, paper No. C-36.

7. The workman's union has examined all the concened workmen in support of their case; whereas the opposite party has examied Shri A.K. Sarkar, Divisional Engineer in support of their case. The parties cross examiner witnesses of each other. Both the parties availed opportunity of oral as well as written submissions.

8. Heard the representatives of the parties at length and perused entire evidence on record.

9. The authorized representative of the Union has contended that the workman have been working with the

opposite party since 1996-97 continuously as part time casual labour; but the management of the BSNL did not heed to their request for regularization; accordingly, they made a complaint before Assistant Labour Commissioner (Central), Kanpur on 16.04.2002. Annoyed from this action, the management terminated the services of the workmen *w.e.f.* 30.03.2003 without assigning any reason or retrenchment compensation. He has further contended that the workman have worked for more than 240 days in each calender year; but the management has not regularized the services of the workmen, instead has terminated their services *w.e.f.* 30.03.2003 in violation to provisions contained in section 25F of I.D. Act, 1947 though the case was referred to this Tribunal for adjudication *vide* order dated 26.03.2003.

10. Per contra the authorized representaitve has contended that the opposite party is not an 'industry' within the I.D. Act. It was further contended that the workmen were not appointed following due procedure. Their name had neither been sponsored by the Employment Exchange nor they took up any test nor undergone any interview nor were given any appointment order, therefore are not entitled for regularization. In this regard it has relied on orders of Hon'ble Supreme Court; wherein it has held that for regularization it is necessary that appointment should be proper, failing which it would lead to back door entry which is not permissible.

11. I have scanned entire evidence on record in light of rival contentions of the parties.

12. The authorized representative of the managment has submitted that the BSNL is not an 'industry' within the meaning of the I.D. Act. In this regard the workman has relied on verdict of Hon'ble Apex Court in Bangalore Water Supply & Sewerage Board etc. vs. A. Rajappa & others case; wherein it has been observed that

" absence of profit motive on gainful objective is irrelevant, be the venture in the public, joint, private or other sector."

Hon'ble Apex Court has further observed that:

"Where (i) systematic activity (ii) organized by co-operation between employer and employee (the direct and substantial element is commercial (iii) for the producton and/or distributon of goods and services calculated to satisfy human wants and wishes (not spiritual or religions but inclusive of material things or services geared to celestial bliss i.e. making on a large scale Prasad or food) prima facie, there is an industry in that enterprise."

It is admitted fact that the BSNL, a Government of India undertaking, provides telecommunication services to the public and generates revenue therefrom and for the same a concerted effort is required. It is not indulged in any

sovereign function as there are so many companies providing same facilities. Thus, from over all activities conducted and services sprovided by the BSNL, it comes out that it qualifies the triple test, formulated by the Hon'ble Apex Court in Bangalore Water Supply & Sewerage Board etc. vs. A. Rajappa & others case. Thus, in view of above legal prepositions the argument of the authorized representative of the management find no substance that the opposite party is an industry.

13. During the course of the argument, the authorized representative of the managment has taken objection that the present industrial dispuste has been expoused by the Bhartiya Gramin Mazdoor Sangh, which withdrawn the dispute before this Tribunal. It has further submitted that after withdrawal of the case, the present dispute is being espoused by some other union, which is not reecognized by the BSNL, and during proceedings the management objected this fact. In this regard, it is noteworthy to mention that this issue of representation has salready been resolved by my predecessor *vide* order dated 23.11.2004 observing that

"the matter has been referred to the CGIT for adjudication. The issue has to be adjudicated by CGIT. The CGIT-cum-Labour Court is not dependent upon the mercy of trade union for adjudicating the reference. It will be miscarriage of justice if worker's interest is not taken into account on technical ground. The worker's claim cannot be thrown out. If the workers opt to be represented by some other trade union, they have right to do so. The principal object is that there should not be any miscarriage of justice."

Also, it is evident from the proceedings and the material available on record that the opposite party has not preferred any writ or appeal before an appropriate court, therefore, the matter of representation has attained finality.

14. The authorized representative of the management has argued that the workman whose initial appointment is not in accordance with Recruitment Rules cannot claim regularization. It has also contended that this Tribunal cannot go beyond the scope of schedule of reference and has to confined itself within the limit of the order of reference while adjudicating a matter referred to it. In this regard it has relied on Municipal Employees' Union & another vs. Secretary (Labour), Government of N.C.T. of Delhi & another 2001 (89) FLR 360 Hon'ble Delhi High Court taking terms of reference into consideration has observed that the Industrial Tribunal cannot travel beyond the terms of reference. Terms of reference should invariably encompass the entire dispute between the workman and the management.

15. In the instant case the terms of reference are regarding adjudicating the validity of the action of the management of the BSNL in not regularizing the services of the workmen concerned and the statement of the claim

filed by the workman's union is also regarding not regularizing the workmen who were working the employer for long. The prayer made to this tribunal is for the grant of regularization. But from the perusal of the record it is revealed that they have never made any oral or written request from the management to get their services regularized. The workmen in the affidavit have also stated that their services have been terminated w.e.f. 30.03.2003 for which they have raised an industrial dispute under Section 33-A of the Industrial Disputes Act, 1947 for alleged violation of provisions contained in Section 33 of the I.D. Act, 1947 before this Tribunal, which was registered as industrial disputes No. 65/2004.

16. Section 33-A of the Industrial Disputes Act, 1947 empowers the Labour Tribunal to adjudicate upon a complaint regarding change in service condition of a workman during pendency of proceedings. The provisions of Section 33A of the Act are quoted hereunder:

33A. Special provision for adjudication as to whether conditions of service, etc., changed during pendency of proceedings.—

Where an employer contravenes the provisions of section 33 during the pendency of proceedings before a conciliation officer, Board, an arbitrator Labour Court, Tribunal or National Tribunal any employee aggrieved by such contravention, may make a complaint in writing, in the prescribed manner,—

- (a) to such conciliation officer or Board, and the conciliation officer or Board shall take such complaint into account in mediating in, and promoting the settlement of, such industrial dispute; and
- (b) to such arbitrator, Labour Court, Tribunal or National Tribunal and on receipt of such complaint, the arbitrator, Labour Court, Tribunal or National Tribunal, as the case may be, shall adjudicate upon the complaint as if it were a dispute referred to or pending before it, in accordance with the provisions of this Act and shall submit his or its award to the appropriate Government and the provisions of this Act shall apply accordingly.

It is pertinent to mention here that after hearing this Tribunal vide its order dated 18.02.2013 held that the management of BSNL terminated the services of the workmen, in violation to the provisions of Section 33A during pendency of the industrial dispute before this Tribunal; and accordingly directed the management to reinstate the workmen on the ground that the services of the workman have been terminated by the management of the BSNL during pendency of the proceedings before this Tribunal in the present industrial dispute, without seeking any permission from this Tribunal in this regard.

17. The workmen's case is that they have been working with the management of BSNL since year 1996-97 as daily rated workers and the management has not regularized their services; rather it has terminated their services without any notice of compensation in lieu thereof in violation of provisions of Section 25-F of the Act. The management of the BSNL has disputed their claim regarding appointment at any point of time. The workmen have filed voluminous documents, some of them are photocopies and some are original registers, showing their engagement and working details with the management; but the management has disputed their genuineness. The management has specifically stated that the certificates of working, relied upon by the workman, Bhagwan Das has been procured by foul play as the person who issued said certificate of working, paper No. 4, has been issued by Shri Ram Kishun who is father of the workman, Bhagwan Das and this factum has been admitted by the workman during his evidence. Hence, in view of the denial of the management regarding alleged engagement of the workmen by the BSNL, it was incumbent upon the workmen to corroborate their pleading that they have been engaged by the opposite party and were in their services on the date of their alleged termination.

The documentary evidence filed by the workman either photocopy or the original registers, for proving their engagement with the management, have been disputed by the management. The workman has also moved an application dated 24.09.2004, paper No. C-57 for summoning documents to prove their engagement and working with the management. The workmen by the way of application, C-57 has tried to summon employees attendance register, engine register, store register, postal receipt register etc. to substantiate that they have been working with the management for long time; and this Tribunal vide its order dated. 23.11.2004 directed the management to file the documents required by the workmen; but the management of the BSNL failed to produce any nor it filed any affidavit for non-production of the documents summoned from it.

From perusal of the documents filed by the workmen have been working since 1996 to 31.12.2001; whereas the workmen's witness has stated that they have worked up to March, 2003. The workman viz. Ishwar Prasad, Narendera Kumar Sharma, Dilip Kumar, Ravinder Kumar, Prem Narayan, Bahoran Pal very specifically stated that their names were not sponsored by the Employment Exchange; whereas all of them have stated that neither any appointment letter was given to them nor they were appointed against any advertisement nor undergone any test or interview. The union has filed photocopy of an advertisement, published in Rozgaar Sangraha dated 26.07.2002, paper No. 15/27 calling for applications for various post in BSNL; however it could not file any document to show that the workmen concerned were engaged against any advertisement etc. or their name has been called from the Employment Exchange or they undergone any procedure for recruitment.

Most of the workmen have also stated that they started working with the BSNL at the oral instructions of the SDO as part time labour and they were not given any order in writing either at the time of engagement or while terminating their services. They have also stated that they did not make any request or application before the management to regularize their services before instituting the present industrial dispute.

18. As regard relief of regularization, the management has relief on National Fertilizers Ltd. Vs. Somvir Singh 2006 (110) FLR 211 wherein the workmen were appointed without any advertisement and without any intimation to the employment exchange, the Hon'ble Supreme Court held that the appointments of the workmen was illegal and they do not have any legal right to continue in service.

19. From the evidence on record it is evident that the workmen whose cause has been espoused in the present reference were engaged by SDO or any person who had no authority to engage as casual labour. Further there was neither any advertisement nor their names were sponsored by any Employment Exchange nor they were given any written order regarding appointment or termination of their services. As per their own version, when the present dispute was referred to this Tribunal vide dated 05.03.2003, the workmen were in the service of the BSNL and subsequently, terminated from the services w.e.f. 30.03.2003. But the issue of termination is neither agitated in the present reference nor the union moved any application for amendment in the schedule of reference before the appropriate government nor has moved any application for amendment in the statement of claim for incorporation of fact of termination. Rather, it has agitated the same under Section 33A of the I.D. Act, 1947 before this Tribunal. Accordingly in view of the discussions made above and law laid down by Hon'ble Delhi High Court in *Municipal Employees' Union & another Vs. Secretary (Labour), Government of N.C.T. of Delhi & another* 2001 (89) FLR 360 has limit it self with the matter of regularization of the workmen. The workmen have come up with the case that they have been working with the management of BSNL since 1996-97 as Daily Mazdoor continuously and their services have not been regularized by the management. In this regard the workman has relief on the letter of Dy. General Manager (A)/o/o the Chief General Manager Telecom, U.P. (East) Circle, Lucknow dated- 09/2000, paper No. 58/2, which is addressed to the GM TD, Jhansi regarding conversion of part time casual labourers working for less than four hours per day into full time casual labourers. The management through said letter has sought details of "Part time casual labourers" who may be considered for conversion into full time casual labourers; whereas the case of the workmen is not of a "part time casual labour" instead they have come up with the case that they are daily rated mazdoors; hence their case is not covered within the circumference of the said letter. There is no other reliable

material on record, which goes to show that there was any scheme prevalent in the BSNL to regularize the services of the casual workers. Thus, the workmen's union has also failed to show that there was any scheme or notification for grant of regularization to such daily rated mazdoors/workers.

20. Regarding regularization of casual labours who are engaged/appointed and continued for long in public employment the Hon'ble Apex Court in *Secretary, State of Karnataka and other vs. Umadevi* (3) and other 2006 4 SCC 1 has observed as under:

"It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular services or made permanent, merely on the strength such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules.....The High Courts acting under Article 226 of the Constitution, should not ordinarily issue directions for absorption, regularization, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme."

21. Thus, in view of the law laid down by Hon'ble Apex Court hereinabove, the workmen in the instant case were not appointed in the BSNL after observing the due procedure for engagement/appointment of casual workers, are entitled for regularization. Accordingly, the reference under adjudication, is adjudicated against the workmen's union and I come to the conclusion that the workmen concerned are not entitled for any relief.

23 Award as above

LUCKNOW Dr. MANJU NIGAM, Presiding Officer
06th February, 2014

नई दिल्ली, 18 फरवरी, 2014

कांआ 874.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डायरेक्टर, इंडियन वेटरनरी रिसर्च इंस्टिट्यूट, बैरैली के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय लखनऊ के पंचाट (संदर्भ संख्या 67/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/2/2014 को प्राप्त हुआ था।

[सं० एल० 42012/75/2000—आई आर (डीयू)]

पी०के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 18th February, 2014

S.O. 874.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the award (I.D. No. 67/2000) of the Central Government Industrial Tribunal/Labour Court Lucknow now shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Director, Indian Veterinary Research Institute, Bareilly and their workmen, received by the Central Government on 18/02/2014.

[No.L-42012/75/2000-IR(DU)]

P.K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT, LUCKNOW

PRESENT:

Dr. MANJU NIGAM,

Presiding Officer

I.D. No. 67/2000

Ref. No. L-42012/75/2000/IR(DU) dated: 31/07/2000

BETWEEN

Sh. Ram Das S/o Sh. Parsadi Lal

R/o Mohanpur Urf Ram nagar

PO: University

Bareilly (U.P.)

AND

Director

Indian Veterinary Research Instt.

Izatnagar

Bareilly (U.P.)

AWARD

1. By order No. L-42012/75/2000-IR (DU) dated: 31/07/2000 and its subsequent corrigendum dated 16.10.2005, the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub Section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Ram Das S/o Sh. Parsadi Lal, R/o Mohanpur Urf Ram nagar, PO: University, Bareilly U.P. and the Director, Indian Veterinary Research Instt., Izatnagar, Bareilly (U.P.) for adjudication.

2. The reference under adjudication is:

“Whether the action of the management of Indian Veterinary Research Institute, Izatnagar Bareilly in terminating the services of Sh. Ram Das s/o Sh. Parsadi Lal, Ex-daily wage *w.e.f.* 17/2/95 is legal and justified? If not, to what relief the workman is entitled and from which date?”

3. The case of the workman, Ram Das, in brief, is that he was engaged/appointed as regular labour on 01.11.1989

for maintenance work; and he worked accordingly, on initial salary/wages @ Rs. 17.35 per day, which was subsequently enhanced to Rs. 21.65 per day. It has been alleged by the workman that his services have been terminated *w.e.f.* 17.02.1995 by the management without assigning any reason, notice or notice pay in lieu thereof. The workman has submitted that he worked continuously with the management of IVRI since his appointment; and accordingly, his termination of services are violative of the provisions contained in Section 25 F of the Industrial Disputes Act, 1947. He further alleged that the management did not follow ‘last come first go’ principle in terminating his services, which resulted into violation of provisions of Section 25G of the Act. Accordingly, the workman has prayed that he be reinstated with consequential benefits including full back wages.

4. The management of the IVRI has disputed the claim of the workman and filed its written statement; wherein it has stated that the workman had been engaged as casual labourer as per need of the institute to carry out casual nature of work. It has submitted that the casual mazdoors are engaged for 40 days at a time, 100 days in six months or 200 days in a year and their engaged comes to an end with time period for engagement or completion of the work they are engaged for; hence, there is no termination of the services of the workman by the management as the termed engagement of the workman came to an end on the completion of the specified work, therefore, there is no retrenchment and no violation of provision of Section 25 F of the Industrial disputes Act, 1947. It is also submitted by the management that the workman never worked for 240 days in any calendar year or preceding 12 months in the institution. Apart from this the management has taken various preliminary objections, such as, the reference is bad in the eye of law as the IVRI is not covered section 2 (a) (i) of the Act hence the reference order is bad in the eye of law, vague and without jurisdiction. Further, it has also objected regarding the jurisdiction of this Court on the basis that the present dispute is not an industrial dispute’ within the meaning of section 2A read with section 2 (k) of the Act; hence, this Tribunal has no jurisdiction to adjudicate the present dispute. Likewise, the management has submitted that the workman has already remedy in respect of regularization before, Hon’ble Central Administrative Tribunal, Allahabad and Hon’ble Apex Court, therefore they cannot raise any demand with regard to their regularization before this Tribunal; hence on this ground also the reference is bad in the law and without jurisdiction. The management has also pleaded that the claim is stale one; hence barred by the limitation. It has also submitted that the applicant does not come under the definition of ‘workman’ as defined in Section 2 (s) of the Act. Likewise it is also submitted by the management that it is a purely ‘Scientific Institute and is undertaking research and extension activities on agriculture and animal; hence

not covered in the definition of 'Industry' as provided in the Section 2J of the Act. Accordingly the management of the IVRI has prayed that the claim of the workman be rejected without any claim of the workman be rejected without any relief of the workman concerned.

5. The workman has filed rejoinder whereby apart from reiterating his averments in the statement of claim and has stated that he had been engaged as labourer and worked with the IVRI for many years and he is fully covered with the definition of workman under Act. Also, he has stated that IVRI is not a purely research institution, but is a big educational and commercial place; and it comes within the triple test formulated by the Bangalore Water Supply case hence it is an industry within the meaning of provisions of Section 2 'j' of the Act. Moreover, the workman has submitted that all the preliminary objections raised by the management be taken up at the time disposing of the case on merits.

6. The parties have filed documentary proof in support of their respective cases. The workman has examined himself whereas the management examined Shri Sunil Kumar Gupta, AAO in support of their respective stands. The parties availed opportunity to cross-examine the each other's witnesses. The parties were provided ample opportunity to forward oral arguments; but they failed to put any since 29.05.2003; moreover, the parties are not turning up since 21.12.2010, therefore, the case was reserved for award, keeping in view the reluctance of the parties to argue their case and long pendency of the case since 2000.

7. Perused entire evidence on record and gone through respective pleadings of the parties.

8. The workman has stated that he had been engaged as regular labourer with the opposite party and he worked for more than 240 days in each calendar year during his engagement; but his services have been terminated without following the due procedure of the Section 25F of the Act. He has stated that he was neither give any written order regarding appointment nor any termination order was served upon by the management. He also stated that the provisions of Section 25G were not complied with while terminating his services by retaining the services of the juniors.

9. In rebuttal, the management witness has stated that in order to meet the temporary needs, casual/daily rated employees are engaged from time to time to meet the exigency of the work by calling their names from Employment Exchange. It is also stated by the management witness that in respect of casual labourers there is no intere seniority amongst them and they are purely engaged on the availability of the work and the workman workman worked as casual labour for a specific period in the IVRI. In cross-examination the management witness admitted that in IVRI, vaccine for animal etc. was prepared and sold.

10. I have scanned entire evidence available on record in the light of the aforesaid rival stands of both the sides.

11. The management of the IVRI has taken plea that the claim of the workman is barred by the limitation being stale one, as the same has been raised after a long gap for which no explanation has been forwarded by the workman. In this regard it is stated that the provisions of Limitation Act are not applicable on the industrial disputes under the Act; but it is expected from the litigants to invoke the jurisdiction of the court well in time. In the instant case, it is apparent from the pleadings of the parties that the workman first approached to the Central Administrative Tribunal for redressal of his grievances; and thereafter, he made an effort to get a reference from the Central Government and this process starts first by making a complaint before the conciliation Officer and then on failure of the conciliation, the reference is made to this Tribunal. Moreover, more than two dozen cases of similar nature which were referred in the year 2000 along with the present case, have already been adjudicated, therefore, in view of the discussions made hereinabove, this Tribunal tends to adjudicate the present industrial dispute on merit in spite of rejecting the same on the point of limitation.

12. Further, the management of the IVRI in its written statement has taken many preliminary objections regarding validity of the reference order and jurisdiction of this Tribunal to adjudication the present industrial dispute. In this regard it is well appreciated that the present industrial dispute has been referred to this Tribunal by the appropriate Government *i.e.* Central Government, in exercise of powers conferred under Clause (d) of the sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Tribunal Act, 1947 and this Tribunal has to answer the schedule of reference, referred to it.

The Section 2A of the Industrial Tribunal Act, 1947 reads as under:

"2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute.—(1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute."

The present dispute relates to the termination of the services of the workman and bare reading of Section 2A, it comes out that the same is well covered within the provisions contained in Section 2A; and also, the management has never challenged the reference order before competent Court. The reference has been referred to this Tribunal by the Central Government to answer and

it has no power to refuse the same or to sit in appeal against the order of reference. In *Steel Authority of India Ltd. vs. Hindustan Steel Employees Union & Ors.* 1988 (78) FLR 293 it has been observed as under:

“Court has to see substance and not form of order. Formal defects in citation of reference order would not oust jurisdiction of Tribunal. If the Government inadvertently or wrongly or even deliberately commits the dispute for adjudication under Section 2(K) of the Act, the Tribunal has still power for adjudication if from material I could be said that the dispute has come into existence under Section 2A of the Act by operation of law. The Tribunal in doing so, would not go beyond the term of reference as the term of reference was whether the termination of service was justified or not justified.”

Hence, in view of the law cited and discussions made hereinabove. I am of the opinion that the preliminary objection of the management as regard validity of the reference order and jurisdiction of this Court has no force.

13. The opposite party has also taken the objection that the applicant is not a workman as defined in the Section 2 (s) (iv) of the I.D. Act, 1947. The workman has denied the contention of the management Section 2 (s) of the Industrial Disputes Act, 1947 defines ‘workman’ as under:

2. “(s) workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

- (i)
- (ii)
- (iii)
- (iv) Who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.”

In this regard the onus was on the management to come forward with evidence such as details of work liabilities in respect of workman and powers conferred upon him to show that the applicant was actually engaged in managerial or supervisory work; but the management has utterly failed to do so, in as much as, apart from the pleading it has

not corroborated the same with cogent documentary evidence. On the contrary from the statement of the management witness. Shri S.K. Gupta. AAO *vide* para 14 of his affidavit it is clear that the applicant was engaged as Daily wages casual worker for seasonal/intermittent nature of workman in IVRI. Also, it is not denied that the workman had not worked with the opposite party; the onus is on the opposite party to explain in what capacity he has been inducted with the opposite party, which puts him out of the purview of the definition of ‘workman’. Therefore on the basis of the evidence on record, I am of the opinion that the applicant is ‘workman’ as defined in the Section 2 ‘s’ of the Act.

14. The second objection taken by the management of IVRI is that it is not an industry within the meaning of Section 2 ‘j’ of the Industrial Disputes Act, 1947. In this regard the parties have relied on verdict of Hon’ble Apex Court in *Bangalore Water Supply & Sewerage Board etc. vs. A. Rajappa & others* case: wherein it has been observed that

“absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.”

Hon’ble Apex Court has further observed that

“Where (i) systematic activity (ii) organized by co-operation between employer and employee (the direct and substantial element is commercial (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss *i.e.* making on a large scale Prasad or food) *prima facie*, there is an industry in that enterprise.”

The management has come up with the case that the IVRI is a Research Institute engaged in purely research work of public importance and it is discharging the function which is neither domestic nor commercial in nature. It has taken plea that the main purpose of IVRI is to carry on research work on various project entrusted to it by the Government of India etc. for which special grant in aid is received for meeting out expenses and it has to not qualified the various tests which may put its activities as an ‘Industry’. In rebuttal, the workman has pleaded that the IVRI is not a purely research institution, but is a an educational commercial place where number of medicines are being manufactured and sold by the opposite party, and in addition to this milk agricultural equipments, animal flesh, eggs are also being sold; as such, it is not correct to say that IVRI is only a research institute as it is indulged in commercial activities too; hence comes within the purview of ‘Industry’. The management witness, Sh. Sunil Kumar Gupta, AAO in his cross-examination has admitted that vaccines for animal etc. are being manufactured in IVRI and same are being sold.

Thus, in view of facts and circumstances of the case and above legal prepositions, I am of considered opinion that the opposite party management *i.e.* Indian Veterinary Research Institute is indulged in commercial activity also and not only discharging sovereign function of the State; and accordingly, come to the conclusion that the opposite party is an 'industry' within the provisions of Section 2 (j) of the Industrial Disputes Act, 1947.

15. Coming to the merit of the case, admittedly no appointment letter was issued to the workman also there is no iota of evidence that the workman had been engaged with the IVRI following due procedure for engagement of the casual labour. It has come in the evidence of the management that the workman had been appointed to carry out the casual nature of intermittent work. The management has come up with the details of working of the workman. The workman filed photo copy of documents in support of his contention, as under:

- (i) Certificate of working from 13.09.90 to 27.10.90
- (ii) Certificate of working from 01.11.90 to 10.12.90 & 13.12.90 to 21.01.91.
- (iii) Certificate of working from 13.05.91 to 02.06.91, 24.06.91 to 02.08.91, 05.08.91 to 03.08.91.
- (v) Certificate of working from 20.02.92 to 30.03.92, 02.04.92 to 11.05.92 & 14.05.92 to 22.05.92.
- (vi) Certificate of working from 24.08.92 to 19.09.92, 22.09.92 to 31.10.92 and 03.11.92 to 11.11.92.
- (vii) Certificate of working from 08.02.93 to 19.03.93, 22.03.93 to 30.04.93 and 03.05.93 to 12.05.93.
- (viii) Certificate of working from 11.07.93 to 29.07.93.
- (ix) Photo copy of muster rolls
- (x) Photo copy of advertisement
- (ix) Correspondences and memorandums.

16. The workman has come up with a case that he worked continuously for more 240 days in a calendar year even then his services have been terminated in violation to the provisions of Section 25F of the Industrial Disputes Act, 1947. In 2005 (107) FLR 1145 (SC) Surenderanagar Panchayat and another *v.* Jethabhai Pitamberbhai Hon'ble Appex Court came to the conclusion that where the workman failed to prove that he had been in employment with the employer for a period of 240 days uninterruptedly, he is not entitled to protection in compliance of section 25 -F of the Industrial Disputes Act, 1947. It was held by the Hon'ble Supreme Court that the scope of the enquiry before the Labour Court was confined only to 12 months preceding the date of termination to decide the question of the continuous service for the purpose of section 25-F of the Industrial Disputes Act, 1947. Further, Hon'ble Apex Court has observed as under:

“The claimant, apart his oral evidence has not produced any proof in the form of receipt of salary or

wages for 240 days or record of his appointment or engagement for that year to show that he has worked with the employer for 240 days to get the benefit under section 25-F of the Industrial Disputes Act. It is not well settled that it is for the claimant to lead evidence to show that he in fact worked for 240 days in a year preceding his termination.”

Therefore, in view of the above referred case law, in order to take any relief for non-compliance of mandatory provisions contained in section 25 F of the Act, it is necessary for the claimant to lead evidence to the effect that he was actually in employment of the opposite party for 240 days in the year preceding his termination and he was actually paid for it. In the instant case there is no iota of evidence to show that the workmen worked for 240 days with the management of the IVRI in twelve calendar months preceding the date of termination. The workman has filed photocopy of few working certificates and Muster Rolls in respect of his working with the opposite party. The workman himself has filed detail of total working period of working, prepared on the basis of Registration Card for casual workers and certificates issued to him, paper No. 07. For proper adjudication of this case this Tribunal has to confined to the working details of the workman for the twelve months preceding the date of alleged termination *i.e.* 17.02.1995. The details of working of the workman, in the preceding twelve months *i.e.* 18.02.94 to 17.02.1995 is as under :

S. No.	Duration	No of days worked
1.	12.03.94 to 31.03.94	19
2.	01.04.94 to 30.04.94	27
Total		46

From above working detail, provided by the workman himself, it is very much clear that the workman did not completed total working for 240 days in the year preceding his alleged termination so as to make it mandatory for the management to comply with the provisions of Section 25 F of the Industrial Disputes Act, 1947. The workman has utterly failed to substantiate this fact that he worked for 240 days in a year preceding the termination.

17. It is well settled that if a party challenges the legality of order the burden lies upon him to prove illegality of the order and if no evidence is produced, the party invoking jurisdiction of the court must fail. In the present case burden was on the workman to set out the grounds to challenge the validity of the termination order and to prove the termination order was illegal. It was the case of the workman that he had worked for 240 days in the year concerned. This claim has been denied by the management, therefore, it was for the workman to lead evidence to show that he had in fact worked up to 240 days in the year preceding his alleged termination. In (2002) 3 SCC 25 Range Forest Office

vs S.T. Hadimani Hon'ble Apex Court has observed as under:

“It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days or order or record of appointment or engagement for that period was produced by the workman. On this ground alone, the award is liable to be set aside.”

18. Analyzing its earlier decisions on the aforesaid point Hon'ble Apex Court has observed in 2006 (108) FLR R.M. Yellatti & Asstt. Executive Engineer as follow:

“It is clear that the provisions of the evidence Act in terms do not apply to the proceedings under section 10 of the Industrial Disputes Act. However, applying general principles and on reading the aforesaid judgments we find that this Court has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked 240 days in a given year. This burden is discharged only upon the workman stepping in the witness box. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary. In cases of termination of services of daily wages earner, there will be no letter of appointment or termination. There will also be no receipt or proof of payment. Thus, in most cases, the workman (claimant) can only call upon the employer to produce before the Court the nominal muster roll for the given period, the letter of appointment or termination, if any, the wages register, the attendance register etc. Drawing of adverse inference ultimately would depend thereafter on facts of each case. The above decisions however make it clear that mere affidavits or self serving statements made by the claimant/workman will not suffice in the matter of discharge of the burden placed by law on the workman to prove that he had worked for 240 days in a given year. The above judgments further lay down that mere non production of muster rolls per se without any plea of suppression by the claimant workman will not be the ground for the tribunal to draw an adverse inference against the management.”

In the present case the workman has stated that he has worked continuously for 240 days, but has not corroborated the same with cogent evidence. The burden is on the workman to show by the way of cogent evidence that he

actually worked for 240 days in the preceding 12 months from the date of his alleged termination. From the working details, provided by the workman himself, *vide* paper No 7 to 7/3, it comes out that he had actually worked for 46 days only in the preceding 12 months from the date of his alleged termination. Mere pleadings are no substitute for proof. Initial burden of establishing the fact of continuous work for 240 days in a year preceding the date of alleged termination was on the workman but he failed to discharge the above burden. There is no reliable material for recording findings that the workman had worked for 240 days in the preceding year from the date of his alleged termination *i.e.* 18.02.94 to 17.02.1995. and the alleged unjust or illegal order of termination was passed by the management.

19. Accordingly, in view of the law cited and discussions made hereinabove, the reference under adjudication is answered positively with the observation that the action of the opposite party in terminating the services of the workman *w.e.f.* 17.02.1995 is neither illegal nor unjustified and the workman, Ram Das is not entitled to any relief.

20. The reference under adjudication is answered accordingly.

21. Award as above.

Lucknow

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 18 फरवरी, 2014

कांआ० 875.—औद्योगिक विवाद अधिनियम 1947, (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीनियर सुपरिन्टेन्डेंट, पोस्ट ऑफिस, देहरादून डिवीजन के प्रबंधन के संबंध में केन्द्रीय सरकार और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 43/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2014 को प्राप्त हुआ था।

[सं० एल-40012/158/2003-आईआर (डीयू)]

पी०के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 18th February, 2014

S.O. 875.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 43/2004) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Senior Superintendent, Post Office Dehradun Division and their workman, which was received by the Central Government on 18/02/2014.

[No. L-40012/158/2003-IR (DU)]

P.K. VENUGOPAL, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, LUCKNOW****PRESENT**

DR. MANJU NIGAM, Presiding Officer

I.D. No. 43/2004

Ref. No. L-40012/158/2003-IR (DU) dated: 19.04.2004

BETWEEN

Shri Inder Singh, S/o Sh. Bhagwan Singh
Village & Post Office—Mazagoan Kavanu,
Distt.-Dehradun

AND

The Senior Superintendent
Post Office, Dehradun Division,
Dehradun

AWARD

1. By order No. L-40012/158/2003-IR (DU) dated, 19.04.2004 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Shri Inder Singh, S/o Sh. Bhagwan Singh, Village & Post Office-Mazagoan Kavanu, Distt-Dehradun and the Senior Superintendent, Post Office, Dehradun Division, Dehradun for adjudication to this CGIT-cum-Labour Court, Lucknow.

2. The reference under adjudication is:

“Whether the action of Sr. Supdt. of Post Offices, Dehradun in Terminating the services of Shri Inder Singh S/o Sh. Bhagwan Singh, Shakha Dakpal *w.e.f.* 22/5/98 is legal and just? If not to what relief the workman is entitled to?”

3. It is admitted case of the parties that the workman, Inder Singh had been appointed as Branch Post Master with the opposite party Post office *w.e.f.* 29.07.94 and he was served upon a charge sheet dated 20.03.98 for the misconduct of misappropriation and consequently his services have been terminated *w.e.f.* 22.05.98 *vide* impugned order dated 22.05.98.

4. The workman in his statement of claim has stated that he submitted his reply to the charge sheet dated 20.03.98 as per advice of the his higher officer and has alleged that the management arbitrarily terminated his services without following due procedures of law *i.e.* did not conduct any inquiry or provided him a chance to defend himself, which was flagrant violation of the principles of natural justice. Accordingly, the workman has prayed that the action of the management in terminating his services *vide* impugned order dated 22.05.98 be set aside and he be reinstated with full back wages; continuity in services and other consequential benefits.

5. The management, denying the allegations of the workman has submitted that the workman received Rs. 20 on 25.6.95 and Rs. 50 on 26.6.95 against R.D. A/Cs and though he entered the amounts in respective pass books; but did not deposit said amount with the department; and thus he had misappropriated the amount, which was submitted back by him on 17.02.98 with interest amount to Rs. 115. The management has further submitted that the above misconduct led to issuance of charge sheet dated 20.03.98, which was accepted by the workman *vide* his reply dated 11.04.98 and resultantly, he was terminated *vide* order dated 22.05.98. Moreover, the management has pleaded that the establishment of Post Office is not an industry as envisaged by the various verdicts of the Hon'ble Apex Court. Further, the management has also pleaded that the workman does not come within the definition of workman. Accordingly, the management has prayed that the claim of the workman is liable to be rejected as not maintainable and devoid of merit.

6. The workman has field its rejoinder; wherein apart from reiterating the averments already made in the statement of claim, the workman has submitted that the he had been posted as Branch Post Master and was not allotted any supervisory or managerial work, therefore, he is covered within the meaning of 'workman' as provided in Section 2 's' of the Industrial Disputes Act, 1947.

7. The parties filed documentary evidence in support of their rival contentions. The workman examined himself and one Shri Soorat Singh whereas the management examined Shri G.D. Arya, Assistant Suptd. of Post Offices in support of their claim. The parties availed opportunity to cross-examine the each other's witnesses. The management's witness was cross-examined on 18.2.2011 and with that the management concluded its evidence and accordingly, 26.4.2010 was fixed for argument. Since then the case is being fixed for argument for the reasons that the adjournments were sought by the either parties at one pretext or the other. The workman's authorized representative argued its case on 25.11.2011; but the management refrained to do so. On 20.09.2012 the authorized representative of the management moved an application for rehearing, which was allowed and the case was fixed for 27.09.2012; but once again the management's representative failed to appear before this court and forward its arguments. Since then the management kept absent on several dates, which resulted into reserving of present file for award, keeping in view reluctance of the management and long pendency of the case since year 2004.

8. Heard the representative of the workman only and perused entire material on record.

9. The authorized representative of the workman has argued that after issuance of the charge sheet for alleged

misconduct of misappropriation, it was responsibility of the management to get its charge sheet proved by appointing an Inquiry Officer, who might have inquired into the charges after giving full and adequate opportunity to the workman to defend himself; but the management of the post office failed to observe this norm. It failed to conduct a formal enquiry; wherein the complainants/aggrieved were neither produced nor the workman was given any opportunity to cross examine them. He has further argued that the so called statement/admission of the workman was not recorded by the Inquiry Officer; likewise, the other witness whose written statements have been relied upon by the management were neither produced before the Inquiry Officer nor the workman had access to them for their cross examined even then, the Disciplinary Authority, relying on their statement, penalized the workman with the punishment of removal from service.

10. No oral argument has been forwarded by the management. The management has taken plea that the establishment of Post Office does not come within the purview of 'industry' as defined in Section 2 'j' of the Act and the applicant is not a 'workman' within the provisions of Industrial Disputes Act, 1947 as he was Extra Departmental Branch Post Master. It has further pleaded that consequent to admission of the workman *vide* dated 11.04.98, there was no need of conducting any formal enquiry into the case of the applicant, hence, there is nothing illegal or infirm with the impugned order, removing the workman from service or the appellate order, rejecting appeal of the workman.

11. I have given my thoughtful consideration to the submissions of the authorized representative of the workman, pleading of the management and entire evidence adduced by the either parties, documentary as well as oral.

12. The case of the workman in nut shell is that the as per settled law of the land and procedure on occurrence of the misconduct and issuance of the charge sheet, it was incumbent upon the management to conduct a formal inquiry by appointing an Inquiry Officer and the workman was required to be given a notice to appeal before it and defend his cause; but the management in haste failed to observe this basic principle of natural justice. It relied upon the written statement of the workman, which was taken by misrepresentation, and statements of the other witnesses, to whom the workman had no opportunity to get them cross examined. This was not only deviation from the procedure of law regarding conducting an inquiry into the misconduct but also denial of proper defence to the workman. The management passed the impugned order dated 22.05.98 without observing above mandatory formalities. Moreover, the workman has challenged the validity of impugned order on the ground that no complaint was ever made by any one and also that no such complainant was ever produced before an independent

Inquiry Officer for recording its evidence/statement or his cross-examination by the workman. However, the pleadings of the workman are well supported by one of the depositor *viz.* Shri Soorat Singh.

13. Per contra, the case of the management rests on the plea that it is not an industry and the applicant is not a workman with the Act; and further that in view of the admission of the workman regarding alleged misconduct, there was no need to conduct a formal enquiry.

14. Hon'ble Apex Court in Bangalore Water Supply & Sewerage Board vs. A Rajappa & others (1978) 2 SCC 213 case has observed that

"absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector."

Hon'ble Apex Court has further observed that

"Where (i) systematic activity (ii) organized by co-operation between employer and employee (the direct and substantial element is commercial (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss *i.e.* making on a large scale Prasad or food) *prima facie*, there is an industry in that enterprise."

The workman has relied upon General Manager, Telecom vs. S. Srinivasa Rao & others 1998 LLR 8; wherein it has been held by Hon'ble Apex Court that the Telecommunication Department is an 'industry within the definition of Section 2(j) of the Industrial Disputes Act, 1947 because it is engaged in a commercial activity and is not discharging any of the sovereign functions of the State.

It is well known that the Department of Post is indulged in transporting letters, money orders, parcels etc. from one place to another within the country and overseas also and for this they charge fee in form of postage stamp or in cash. Thus, the safe movement of articles from one place to another could be done only when it is systematic and there exists proper management/co-operation between the employer and employee of the department concerned. Further, the services provided by the postal department is very much to satisfy the human wants. Moreover, the activity run by the postal department is no 'sovereign' in the nature as similar services are being provided by other various courier companies.

Thus, in view of facts and circumstances of the case and above legal propositions, I am of considered opinion that the opposite party management *i.e.* post office is at par with the other courier companies, indulge in commercial activity and not engaged in any sovereign function of the State; and accordingly, come to the conclusion that the opposite party is an 'industry' within the provisions of Section 2(j) of the Industrial Disputes Act, 1947.

15. As regarding the plea of the management that the applicant is not a 'workman' within the provisions of the Act, the applicant, Inder Singh has pleaded that he had been posted as Branch Post Master and was not allotted any supervisory or managerial work, therefore, he is covered within the meaning of 'workman' as provided in Section 2 's' of the Industrial Disputes Act, 1947; and in rebuttal the management has taken plea that the applicant served the department under the category of Postal Department E.D. and for him the E.D. (Services Conduct) Rules, 1964 are applicable; but it failed to sustain its contention by filing relevant Rules/guidelines. Thus, there is no material on record to corroborate that the applicant was covered with different Rules and his case is not covered within the provisions of I.D. Act or that he is not a workman within I.D. Act. Hence, I am of opinion that the applicant is a 'workman', covered within definition of Section 2 (s) of the Act.

16. Now coming to the merit of the case, the main contention of the workman is that he had been removed by the impugned order dated 22.05.98 after serving a charge sheet for alleged misconduct of misappropriation, without conducting any formal inquiry. The workman's case is that since there was no complaint from any corner. The management relief upon the written statement of some independent witness to whom he had no chance to cross-examine. Since the management failed to observe this general principle of natural justice and not afforded him proper opportunity to defend himself, the impugned order is bad in the eye of law. As regard his admission dated 11.04.98, the workman has come up with the case that the same was obtained by the management through misrepresentation/pressure. The management has defended its move with the sole contention that consequent to admission of the workman *vide* dated 11.04.98, there was no need to go into inquiry etc.

17. It is settled law as well as undisputed procedure that once a charge sheet has been issued and even there comes admission from the side of charged official, even then the same has to be recorded before Inquiry Officer had it been recorded by an independent Inquiry Officer then the Inquiry Officer might have warned him of the pros and cons of the such 'admission' which the Inquiry Officer was supposed to do. Moreover, when the charge sheet is out come of some complaint, as in the present case it was written statement of some witnesses, then those complainants are ought to be produced before an independent Inquiry Officer, for recording their statement and the workman had an change to cross-examine them. Further, in absence of any formal inquiry *i.e.* an inquiry into the charges by an independent Inquiry Officer who affords all reasonable opportunity to the workman to defend himself with full access to peruse the documents relied upon by the management and proper opportunity to cross examine the witness whose statement were relied upon, it cannot be said that the management's move was just. The workman

has relied upon A. Karthikeyan vs. Managing Director, TASMAL Ltd. Chennai & Others 2010 LLR 663; wherein the services of the petitioner had been terminated without enquiry. Hon'ble High Court setting aside the impugned order, held it 'not valid', even if the petitioner has confessed under pressure and has observed that such statement cannot be basis for termination.

18. Admittedly, in the instant case, the charge sheet was issued and an admission *vide* letter dated 11.04.98 was obtained from the workman and thereafter relying on said admission and written statements of the few other witnesses the impugned order was passed. An admission itself cannot be said to be a sufficient basis to prove the charge sheet, particularly when it was not recorded by an independent authority who might have explained him of adverse effects of such admission. The workman could not get an opportunity to cross-examine, examine those persons *viz.* Shri Soorat Singh and Smt. Sundla Devi, who filed complaint/statement regarding misappropriation/misconduct by the workman since no inquiry was ever conducted against the workman. The workman was penalized/terminated without being getting any opportunity to defend himself. The Disciplinary Authority while passing the impugned order dated 22.5.98 moved only by the statement of Shri Soorat Singh and Smt. Sundla Devi without considering the fact that they have not been cross-examined and as such acted in complete defiance of principle of natural justice. It is the fundamental rule of law that while punishing a person at least an opportunity of hearing must be given to him; but in the instant case this basic rule was not observed by the management of Post office and the workman was not given an opportunity of personal hearing before terminating his services.

19. Thus, in view of the discussions made above and facts and circumstances of the case, I am of the opinion that the action of the management of Sr. Supdt. of Post Offices, Dehradun in terminating the services of the workman, Inder Singh without conducting a formal inquiry and providing adequate opportunity to the workman to defend himself was illegal and unjustified.

20. As regard relief which may be extended to the workman, the workman has relied on Zila Sahakari Kendriya Bhank Mariyadit vs. Jadishchandra 2001 LLR 310; where in a case a working after issuance of charge sheet for alleged misconduct of embezzlement returned the money and his termination was set aside on technical grounds that no enquiry was conducted, Hon'ble Apex Court upheld the reinstatement; but set aside the order for back wages.

Accordingly, keeping in view, the above legal position, the workman shall be reinstated with consequential benefits *i.e.* continuity etc. less any back wages.

21. Award as above.

Lucknow
16-4-2013

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 18 फरवरी, 2014

का०आ० 876.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डायरेक्टर, इंडियन वेटेरनरी रिसर्च इंस्टिट्यूट, बैरैली के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 191/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/02/2014 को प्राप्त हुआ था।

[सं० एल-42012/148/2000-आईआर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 18th February, 2014

S.O. 876.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 191/2000) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Director, Indian Veterinary Research Institute, Bareilly and their workmen, which was received by the Central Government on 18/02/2014.

[No. L-42012/148/2000-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

Dr. MANJU NIGAM, Presiding Officer

I.D. No. 191/2000

Ref. No. L-42012/148/2000/IR(DU), dated 10.10.2000

BETWEEN

Sh. Durg Vijay S/o Chandrika Gupta
R/o H.No. 344/C, N.M.C.
Izatnagar
Bareilly (U.P.)-243 001

AND

Director
Indian Veterinary Research Instt.
Izatnagar
Bareilly (U.P.) 243 001

AWARD

1. By order No. L-40012/72/2003-IR (DU) dated: 20/01/2004 and its subsequent corrigendum dated 16.10.2005. the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section

10 of the Industrial Disputes Act. 1947 (14 of 1947) referred this industrial dispute between Sh. Durg Vijay S/o Chandrika Gupta, R/o H. No. 344/C, N.M.C. Izatnagar, Bareilly (U.P.) and the Director, Indian Veterinary Research Instt., Izatnagar, Bareilly (U.P.) for adjudication.

2. The reference under adjudication is:

“Whether the action of the management of Indian Veterinary Research Institute, Izatnagar, Bareilly in terminating the services of Sh. Durg Vijay, ex-daily wage w.e.f. 10.1.1994 is legal and justified? If not, to what relief the workman is entitled and from which date?”

3. The case of the workman, Durg Vijay, in brief, is that he was engaged/appointed as regular labour on 01.11.1989 and he worked accordingly, on salary/wages @ Rs. 17.35 per day. It has been alleged by the workman that his services have been terminated w.e.f. 10.01.1994 by the management without assigning any reason, notice or notice pay in lieu thereof. The workman has submitted that he worked continuously with the management of IVRI since his appointment; and accordingly, his termination of services are violative of the provisions contained in Section 25F of the Industrial Disputes Act, 1947. He further alleged that the management did not follow ‘last come first go’ principle in terminating his services, which resulted into violation of provisions of Section 25 G of the Act. Accordingly, the workman has prayed that he be reinstated with consequential benefits including full back wages.

4. The management of the IVRI has disputed the claim of the workman and filed its written statement; wherein it has stated that the workman had been engaged as casual labourer as per need of the institute to carry out casual nature of work. It has submitted that the casual mazdoors are engaged for 40 days at a time, 100 days in six months or 200 days in a year and their engaged comes to an end with time period for engagement or completion of the work they are engaged for; hence, there is no termination of the services of the workman by the management as the termed engagement of the workman came to an end on the completion of the specified work, therefore, there is no retrenchment and no violation of provision of Section 25F of the Industrial disputes Act, 1947. it is also submitted by the management that the workman never worked for 240 days in any calendar year or preceding 12 months in the institution. Apart from this the management has taken various preliminary objections, such as, the reference is bad in the eye of law as the IVRI is not covered section 2 (a) (i) of the Act hence the reference order is bad in the eye of law, vague and without jurisdiction. Further, it has also objected regarding the jurisdiction of this Court on the basis that the present dispute is not an ‘industrial dispute’ within the meaning of section 2A read with section 2 (k) of the Act; hence, this Tribunal has no jurisdiction to adjudicate the present dispute. Likewise, the management

has submitted that the workman has already availed remedy in respect of regularization before, Hon'ble Central Administrative Tribunal, Allahabad, and Hon'ble Apex Court, therefore they cannot raise any demand with regard to their regularization before this Tribunal; hence on this ground also the reference is bad in the law and without jurisdiction. The management has also pleaded that the claim is stale one; hence, barred by the limitation. It has also submitted that the applicant does not come under the definition of 'workman' as defined in Section 2(s) of the Act. Likewise it is also submitted by the management that it is a purely Scientific Institute' and is undertaking research and extension activities on agriculture and animal; hence not covered in the definition of 'Industry' as provided in the Section 2 J of the Act. Accordingly, the management of the IVRI has prayed that the claim of the workman be rejected without any claim of the workman be rejected without any relief of the workman concerned.

5. The workman has field rejoinder whereby apart from reiterating his averments in the statement of claim and has stated that he had been engaged as labourer and worked with the IVRI for many years and he is fully covered with the definition of workman under Act. Also, he has stated that IVRI is not a purely research institution, but is a big educational and commercial place; and it comes within the triple test formulated by the Bangalore Water Supply case hence it is an industry within the meaning of provisions of Section 2 'j' of the Act. Moreover, the workman has submitted that all the preliminary objections raised by the management be taken up at the time disposing of the case on merits.

6. The parties have filed documentary proof in support of their respective cases. The workman has examined himself whereas the management examined Shri Sunil Kumar Gupta, AAO in support of their respective stands. The parties availed opportunity to cross-examine the each other's witnesses. The parties were provided ample opportunity to forward oral arguments; but they failed to put any since 01.10.2008; moreover, the parties are not turning up since 21.12.2010, therefore, the case was reserved for award, keeping in view the reluctance of the parties to argue their case and long pendency of the case since 2000.

7. Perused evidence on record; and gone through respective pleadings of the parties.

8. The workman has stated that he was engaged as regular labourer with the opposite party and he worked for more than 240 days in each calendar year during his engagement; but his services have been terminated without following the due procedure of the Section 25 F of the Act. He has stated that he was neither given any written order regarding appointment nor any termination order was served upon him by the management. It was also stated that the provisions of Section 25 G were not complied with while terminating his services but retaining the services of

the juniors. In his cross-examination the workman has denied that he worked only up to 10.08.93.

9. In rebuttal, the management witness has stated that in order to meet the temporary needs, casual/daily rated employees are engaged from time to time to meet the exigency of the work by calling their names from Employment Exchange. It is also stated by the management witness that in respect of casual labourers there is no inter-se seniority amongst them and they are purely engaged on the availability of the work and the workman worked as casual labour for a specific period in the IVRI. In cross-examination the management witness admitted that in IVRI, vaccine for animal etc. was prepared and sold.

10. I have scanned entire evidence available on record in the light of the aforesaid rival stands of both the sides.

11. The management of the IVRI has taken plea that the claim of the workman is barred by the limitation being stale one, as the same has been raised after a long gap for which no explanation has been forwarded by the workman. In this regard it is stated that the provisions of Limitation Act are not applicable on the industrial disputes under the Act; but it is expected from the litigants to invoke the jurisdiction of the court well in time. In the instant case, it is apparent from the pleadings of the parties that the workman first approached to the Central Administrative Tribunal for redressal of his grievances; and thereafter, he made an effort to get a reference from the Central Government and this process starts first by making a complaint before the Conciliation Officer and then on failure of the conciliation, the reference is made to this Tribunal. Moreover, more than two dozen cases of similar nature, which were referred in the year 2000 along with the present case, have already been adjudicated, therefore, in view of the discussions made hereinabove, this Tribunal tends to adjudicate the present industrial dispute on merit in spite of rejecting the same on the point of limitation.

12. Further, the management of the IVRI in its written statement has taken so many preliminary objections regarding validity of the reference order and jurisdiction of this Tribunal to adjudicate the present industrial dispute. In this appreciated that the present industrial dispute has been referred to this Tribunal by the appropriate Government i.e. Central Government, in exercise of powers conferred under Clause (d) of the sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Tribunal Act, 1947 and this Tribunal has to answer the schedule of reference, referred to it.

The Section 2A of the Industrial Tribunal Act, 1947 reads as under:

"2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute.—(1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual

workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.”

The present dispute relates to the termination of the services of the workman and bare reading of Section 2A, it comes out that the same is well covered within the provisions contained in Section 2A, and also, the management has never challenged the reference order before competent Court. The reference has been referred to this Tribunal by the Central Government to answer and it has no power to refuse the same or to sit in appeal against the order of reference. In *Steel Authority of India Ltd. vs Hindustan Steel Employees Union & Ors.* 1988 (78) FLR 293 it has been observed as under:

“Court has to see substance and not form of order. Formal defects in citation of reference order would not oust jurisdiction of Tribunal. If the Government inadvertently or wrongly or even deliberately commits the dispute for adjudication under Section 2(k) of the Act, the Tribunal has still power for adjudication if from material I could be said that the dispute has come into existence under Section 2A of the Act by operation of law. The Tribunal in doing so, would not go beyond the term of reference as the term of reference was whether the termination of service was justified or not justified.

Hence, in view of the law cited and discussions made hereinabove. I am of the opinion that the preliminary objection of the management as regard validity of the reference order and jurisdiction of this Court has no force.

13. The opposite party has also taken the objection that the applicant is not a ‘workman’ as defined in the Section 2(s)(iv) of the I.D. Act, 1947. The workman has denied the contention of the management. Section 2 (s) of the Industrial Disputes Act, 1947 defines ‘workman’ as under:

2. “(s) “workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

(i)

(ii)

(iii)

(iv) Who, being employed in a supervisory/capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.”

In this regard the onus was on the management to come forward with evidence such as details of work liabilities in respect of workman and powers conferred upon him to show that the applicant was actually engaged in managerial or supervisory work; but the management has utterly failed to do so, in as much as, apart from the pleading it has not corroborated the same with cogent documentary evidence. On the contrary from the statement of the management witness, Shri S.K. Gupta, AAO *vide* para 14 of his affidavit it is clear that the applicant was engaged as Daily wages casual worker for seasonal/intermittent nature of work in IVRI. Also, it is not denied that the workman had not worked with the opposite party; the onus is on the opposite party to explain in what capacity he has been inducted with the opposite party, which puts him out of the purview of the definition of ‘workman’. Therefore, on the basis of the evidence on record, I am of the opinion that the applicant is ‘workman’ as defined in the Section 2 ‘s’ of the Act.

14. The second objection taken by the management of IVRI is that it is not an industry within the meaning of Section 2 “j” of the Industrial Disputes Act, 1947. In this regard the parties have relied on verdict of Hon’ble Apex Court in Bangalore Water Supply & Sewerage Board etc. vs. A Rajappa & others case; wherein it has been observed that—

“absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.”

Hon’ble Apex Court has further observed that—

“Where (i) systematic activity (ii) organized by co-operation between employer and employee (the direct and substantial element is commercial (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss i.e. making on a large scale Prasad or food) *prima facie*, there is an industry in that enterprise.”

The management has come up with the case that the IVRI is a Research Institute engaged in purely research work of public importance and it is discharging the function which is neither domestic nor commercial in nature. It has taken plea that the main purpose of IVRI is to carry on research work on various project entrusted to it by the Government of India etc. for which special grant in aid is

received for meeting out expenses and it has to not qualified the various tests which may put its activities as an 'Industry'. In rebuttal, the workman has pleaded that the IVRI is not a purely research institution, but is a an educational commercial place where number of medicines are being manufactured and sold by the opposite party, and in addition to this milk, agricultural equipments, animal flesh, eggs are also being sold; as such, it is not correct to say that IVRI is only a research institute as it is indulged in commercial activities too; hence comes within the purview of "Industry". The management witness, Sh. Sunil Kumar Gupta, AAO in his cross-examination has admitted that vaccines for animal etc. are being manufactured in IVRI and same are being sold.

Thus, in view of facts and circumstances of the case and above legal prepositions, I am of considered opinion that the opposite party management i.e. Indian Veterinary Research Institute is indulged in commercial activity also and not only discharging sovereign function of the State; and accordingly, come to the conclusion that the opposite party is an 'industry' within the provisions of Section 2 (j) of the Industrial Disputes Act, 1947.

15. Coming to the merit of the case, admittedly no appointment letter was issued to the workman also there is no iota of evidence that the workman had been engaged with the IVRI following the due procedure for engagement of the casual labour. It has come in the evidence of the management that the workman was appointed to carry out the casual nature of intermittent work. The management has come up with the details of working of the workman. The workman filed photo copy of documents in support of his contention, as under:

- (i) Certificate of working dated 01.06.09.
- (ii) Certificate of working from 20.11.90 to 22.03.90.
- (iii) Certificate of working from 01.05.91 to 06.08.91.
- (iv) Certificate of working from 01.10.91 to 29.02.92.
- (v) Certificate of working from 22.03.92. to 30.04.92.
- (vi) Certificate of working from 03.05.92 to 31.05.92.
- (vii) Certificate of working from 22.07.92 to 29.10.92.
- (viii) Certificate of working from 05.11.92 to 05.02.93.
- (ix) Certificate of working from 01.93 to 10.10.93.
- (x) Office order regarding working from 13.10.1993 for 40 days.
- (xi) Office order regarding engagement from 24.12.93 to 10.01.94.
- (xii) Photo copy of muster rolls.
- (xiii) Photo copy of advertisement.
- (xiv) Correspondences and memorandums.

16. The workman has come up with a case that he worked continuously for more 240 days in a calendar year even then his services have been terminated in violation to the provisions of Section 25 F of the Industrial Disputes Act, 1947. In 2005 (107) FLR 1145 (SC) Surenderanagar Panchayat and another v. Jethabhai Pitamberbhai Hon'ble Apex Court came to the conclusion that where the workman filed to prove that he had been in employment with the employer for a period of 240 days uninterruptedly, he is not entitled to protection in compliance of section 25-F of the Industrial Disputes Act, 1947. It was held by the Hon'ble Supreme Court that the scope of the enquiry before the Labour Court was confined only to 12 months preceding the date of termination to decide the question of the continuous service for the purpose of section 25-F of the Industrial Disputes Act, 1947. Further, Hon'ble Apex Court has observed as under:

"The claimant, apart his oral evidence has not produced any proof in the form of receipt of salary or wages for 240 days or record of his appointment or engagement for that year to show that he has worked with the employer for 240 days to get the benefit under section 25-F of the Industrial Disputes Act. It is now well settled that it is for the claimant to lead evidence to show that he in fact worked for 240 days in a year preceding his termination."

Therefore, in view of the above referred case law, in order to take any relief for non-compliance of mandatory provisions contained in section 25 F of the Act, it is necessary for the claimant to lead evidence to the effect that he was actually in employment of the opposite party for 240 days in the year preceding his termination and he was actually paid for it. In the instant case, the workman has filed photo copy of number of certificates regarding working with the opposite party as casual labour/mazdoor; and there is no denial from the management on them. The workman has also filed photo copy of muster roll and details of some payment/arrears paid to him by the management in order to substantiate that he worked with the opposite party. Therefore, from scrutinizing the working details of the workman from the documents filed by the either party, the working details in respect of workman in preceding twelve months from the date of termination i.e. from 09.01.93 to 10.01.1994, comes as under:—

S. No.	Duration	No. of days worked
1	2	3
1.	Jan., 93	10
2.	February, 93	28
3.	March, 93	30
4.	April, 93	30
5.	09.05.93 to 31.05.93	23
6.	01.06.93 to 30.06.93	28

1	2	3
7.	01.07.93 to 31.07.93	29
8.	01.08.93 to 31.08.93	9
9.	13.10.93. to 22.11.93	40
10.	24.12.93 to 10.01.94	18
Total		258 days

17. Thus, there is ample evidence to record this finding that the workman had actually worked for 285 days in preceding twelve months from the date of his alleged termination i.e. 10.01.94 and oral termination of his services, without any notice or notice pay in lieu thereof was in violation of the section 25-F of the I.D. Act.

18. Now, it is to be considered as to whether the workman is entitled for reinstatement. From the evidence produced by the workman it is not proved that his appointment was as a regular worker. Even the statement of workman himself as well management witnesses the workman's services were utilized by the IVRI as casual mazdoor on daily wages. The services of the workman were terminated on 10.01.1994. In *Haryana Roadways vs. Rudhan Singh* (2005) 5 SCC 591; 2005 SCC (L&S) 716 Hon'ble Apex Court while considering the question regarding award of back wages has observed:

“There is no rule of thumb that in every case where the Industrial Tribunal gives a finding that the termination of service was in violation of section 25-F of the Act, entire back wages should be awarded..... However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period i.e. from the date of termination till the date of the award, which our experience shows is often quite large, would be wholly inappropriate. Another important factor, which required to be taken into consideration, is the nature of employment. A regular service of permanent character cannot be compared to short or intermittent daily wage employment though it may be for 240 days in a calendar year.”

19. In *Deepak Ganpat Tari vs. N.E. Theater Pvt. Ltd.* 2008 (119) FLR 877 Hon'ble Bombay High Court relying on the Hon'ble Apex Court's judgment in *A P V K Brahmandandam* 2008 (117) FLR 1086 (SC), *Telephone DM vs. Keshab Deb* 2008 (118) FLR 376 (SC), *JDA vs. Ram Sahai* 2006 (111) FLR 1178 (SC), while awarding compensation of Rs. 1,50,000 to the concerned workman considering his daily wages as Rs. 45 in view of the fact that the workman had put in about 3 years of service, has observed as under:

“It is apparent that termination of services of a daily wager does not amount to retrenchment and for violation of section 25-F in such circumstances, the employee cannot be given benefit of reinstatement with continuity and back wages. Hon'ble Apex Court has hold that in such circumstance employee is entitled to benefit of compensation only.”

20. Also, in *Jagbir Singh v. Haryana State Agriculture Mktg. Board* (2009) 15 SCC 327; (2010) 1 SCC (L&S) 545: *Senior Superintendent Telegraph (Traffic), Bhopal v. Santosh Kumar Seal and others* (2010) 2 SSC (L&S) 309 Hon'ble Apex Court has observed as under:

“However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.

The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wages has not been found to be proper by this Court and instead compensation has been awarded.”

21. In the light of principle laid down in aforementioned case laws, it would not be just and proper to direct that the workman be reinstated in service. The ends of justice would meet by paying compensation to the workman instead in place of relief of reinstatement in service.

22. Having regards to these facts that the workman has worked as daily wager and keeping in view the entire facts of the case and the law, the interest of justice would be subserved, if, management is directed to pay lump sum amount of compensation only.

23. Accordingly, the management is directed to pay a sum of Rs. 1,00,000 (Rupees One Lakh only) to the workman as compensation for termination of his services in violation of section 25-F of the I.D. Act. The said amount shall be paid to the workman within 08 weeks of publication of the award, failing which; the same shall carry interest @ 8% per annum.

24. The reference is answered accordingly.

LUCKNOW DR. MANJU NIGAM, Presiding Officer
09th December, 2013

नई दिल्ली, 19 फरवरी, 2014

का०आ० 877.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डायरेक्टर खादी एवं विलेज इंडस्ट्रीज कमीशन, मुम्बई के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नागपुर के पंचाट (संदर्भ सं० सीजीआईटी/एनजीपी/156/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 19/02/2014 को प्राप्त हुआ था।

[सं० एल-42012/167/92-आईआर(डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 19th February, 2014

S.O. 877.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. CGIT/NGP/156/2002) of the Central Government Industrial Tribunal/Labour Court, Nagpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Director, Khadi & Village Industries Commission, Mumbai and their workman, which was received by the Central Government on 19/02/2014.

[No. L-42012/167/92-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE SHRI J.P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

No. CGIT/NGP/156/2002

Date: 18.3.2013

Party No. 1 : The Director,
Khadi & V. I. Commission, H.M.P.,
Deptt. 3, Irla Road, Vile Parle (W),
Mumbai-400056.

Versus

Party No. 2 : Smt. Kalawati Rambhau Hole
C/o Shri Ramlal Mishra Kalidas Mandir,
Ramnagar, Ward No. 20,
Wardha.

AWARD

(Dated: 18th March, 2013)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government had referred the industrial dispute between the employers, in relation to the management of Khadi & C.I. Commission and their workman, Smt. Kalawati Hole, for adjudication, as per letter No. L-42012/167/92-IR (DU), dated 19.04.1994, with the following schedule:—

"Whether the action of the management of Khadi & C.I. Commission, HMP Deptt. Wardha in terminating the services of Smt. Kalawati Rambhau Hole is proper, legal & justified? If not, to what relief the concerned workman is entitled?"

Subsequently, the case was transferred to this Tribunal for adjudication in accordance with law.

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, Smt. Kalawati

Hole, ('the workman' in short), filed the statement of claim and the management of Khadi & C.I. Commission, ("Party No. 1" in short) filed its written statement.

The case of the workman as presented in the statement of claim is that she worked with Party No. 1 as a casual labourer on daily wages continuously without any break from 01.01.1986 to 01.01.1988 and during the tenure of her services, there was no complaint of any kind against her and inspite of her completing more than 240 days of work, her services were terminated without any just or proper reason and the Party No. 1 employed fresh hands, namely, Shri Nilesh Chimanwar, Shri Munna Mangal, Shri Manohar Somalnathe, Shri Suresh Vishakhe, Shri Deochand Pingale and Shri Rameshwar Tiwari, ignoring her claim, in violation of the provisions of the Act and before the termination of her services, neither one month's notice nor one month's wages in lieu notice nor retrenchment compensation was paid to her and the Party No. 1 violated the mandatory provisions of section 25-F, 25-G and 25-H of the Act.

The further case of the workman is that the factory/ establishment of the Party No. 1 at Wardha was closed *w.e.f.* 09.01.1988 and all the sixteen casual labourers working there were discontinued, without following the provisions of the Act and Rules made thereunder and the said factory/ establishment was reopened by Party No. 1 from 01.02.1990 and six old casual labourers were given re-employment after their representations and those casual labourers were juniors to her and though, she made representations for her re-employment, her claim was ignored and such practice was unfair and the denial of Party No. 1 to re-employ her was by way of victimization and in colourable exercise of the employer's right and she is entitled for reinstatement in service with continuity and full back wages.

3. The Party No. 1 in their written statement have pleaded *inter-alia* that the workman was engaged on daily wages on 17.06.1987 for four days only and thereafter, she was again engaged on 01.08.1987 and she worked up-to 29.09.1987 and then she was engaged on 01.01.1988 and she left the job on 08.01.1988 alongwith other workers, without any intimation, who went on strike demanding continuous service and she had never completed 240 days of work in the preceding year of the date of her termination *i.e.* 08.01.1988 and she had worked 72 days in total and as there was no production activity and all the activities were closed at Wardha unit from January, 1988, no workman was employed after 08.01.1988 and the work of Wardha unit started again from February, 1991, for production, marketing and Training programme of Khadi and Village Industries Commission and for the said purpose, 11 workmen including three women were employed as per their seniority and work experience and due to closure of the Wardha unit from January, 1988 to February, 1991, no daily wages worker was engaged during the said period and no worker junior to the workman was even engaged and there was no

violation of the provisions of the Act by them and as the workman had worked only for 72 days, she was not entitled to one month's notice or pay or retrenchment compensation as provided u/s. 25-F of the Act and the workman is not entitled to any relief.

4. In order to prove her case, the workman has examined herself as a witness. In her examination in chief, which is on affidavit, the workman has reiterated the facts mentioned in the statement of claim. However, in her cross-examination, the workman has admitted that she was provided daily work and there was a muster roll, where their presence was marked. She has denied the suggestion that she had worked only for 72 days and she had not worked for 240 days.

5. One Keshav Dhandiba Kamble has been examined as a witness on behalf of the Party No. 1. This witness has also reiterated the facts mentioned in the written statement by Party No. 1, in his evidence, which is on affidavit. In his cross-examination, this witness has stated that he has no personal knowledge about the engagement and termination of the workman and Handmade paper production, Marketing and Training Centre, Wardha was an unit of Directorate of Handmade Paper Industry, Mumbai and the unit at Wardha was closed in the year 2002. He has further stated that after 1996, no labourer was appointed in any of the units of Khadi and Village Industries.

6. At the time of argument, it was submitted by the learned advocate for the workman that the workman worked as a labourer continuously without any break from 01.01.1986 to 01.01.1988 with Party No. 1 and had completed 240 days of work in one year and the Party No. 1 terminated her from services *w.e.f.* 01.01.1988, without compliance of the mandatory provisions of Section 25-F of the Act and before such termination, neither one month's notice nor one month's pay in lieu of notice nor retrenchment compensation was paid to her by Party No. 1 and Party No. 1 after the termination of the workman, employed fresh hands including Nilesh Chimanwar, Munne Mangal and others in violation of the provisions of Section 25-G and 25-H of the Act and as such, the termination of the services of the workman is illegal and she is entitled for reinstatement in service. It was further submitted by the learned advocate for the workman that since the date of termination, the workman is not in gainful employment and she is entitled for continuity in service and full back wages.

7. Per contra, it was submitted by the learned advocate for the Party No. 1 in the written notes of argument that the workman was engaged on for the first time on 17.06.1987 on daily wages basis for four days and subsequently, also, she was engaged intermittently and she had not completed 240 days of work in any year and she left the service on 08.01.1988 without any intimation and she worked only for 72 days and the workman has failed to discharge the burden of providing of the fact of working for 240 days in a year, which was on her and therefore there was no question of

compliance of the provisions of Section 25-F of the Act and the workman is not entitled to any relief.

In support of such contentions, the learned advocate for the Party No. 1 placed reliance on the decisions reported in (2004) 8 SCC 161 (Rajasthan State Ganganagar S. Mills Ltd. Vs. State of Rajasthan and another) 2004 8 SCC 195 (Municipal Corporation, Fridabad Vs. Srinivas), AIR 2006 SC-110 (Surendra Nagar District Panchayat Vs. Dayabai Amarsingh) and (2006) 1 SCC-106 (R.M. Yellatti Vs. Asstt. Executive Engineer).

8. It is well settled by the Hon'ble Apex court in a chain of decisions including in the decisions cited by the learned advocate for Party No. 1 that the burden of proof is on the claimant to show that he had worked for 240 days in a given year. This burden is discharged only upon the workman adducing cogent evidence, both oral and documentary. More affidavits or self serving statements made by the workman will not suffice in the matter of discharge of the burden place by law on the workman to prove that he had worked for 240 days in a given year.

So, keeping in view the principles settled by the Hon'ble Apex Court as mentioned above, now, the present case in hand is to be considered.

9. Admittedly, the workman was engaged as a casual worker on daily wages basis by Party No. 1. According to the workman, she had completed 240 days of work in the preceding 12 months of the date of termination. Party No. 1 has denied such claim. According to Party No. 1, the workman was engaged for 72 days in total in between 17.06.1987 to 08.01.1988 and she had not completed 240 days of work in a given year. So, the burden is on the workman to show that in fact she had worked for 240 days in the preceding 12 months of the date of her termination *i.e.* 01.01.1988.

In support of her case, the workman has examined herself and deposed that she was in continuous service of Party No. 1 from 01.01.1986 to 01.01.1988 *i.e.* more than 240 days. Except her oral evidence, the workman has not produced any other evidence to prove the fact that she had worked for 240 days. No proof of receipts of salary or wages or any record or order in that regard was produced. In this case, the workman has not called upon the Party No. 1 to produce the relevant documents. The workman has also not examined any co-worker. So, the workman has failed to discharge the burden that she was in employment for 240 days during the preceding 12 months of the date of termination of her services. In the fact and situation and in the light of the law on the subject, it is found that the workman is not entitled for the protection or compliance of Section 25-F of the Act, before her services were terminated by Party No. 1. As regard non-compliance of Section 25-G and 25-H of the Act is concerned, suffice is to say that there is no legal evidence on record regarding the existence

of seniority list of employees engaged on daily wages and that Party No. 1 engaged fresh hands and retained workers, who were juniors to the workman. Hence, there no question of violation of the provisions of Section 25-G and 25-H of the Act by Party No. 1. In view of the findings as mentioned above, the workman is not entitled to any relief. Hence, it is ordered:—

ORDER

The action of the management of Khadi & C.I. Commission, HMP Deptt. Wardha in terminating the services of Smt. Kalawati Rambhau Hole is proper, legal & justified. Smt. Kalawati Rambhau Hole is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 18 फरवरी, 2014

कांआ 878.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रीजनल मेनेजर, सिक्कूरिटी पेपर मिल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या CGIT/LC/R/60/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2014 को प्राप्त हुआ था।

[सं एल-16011/4/2005-आईआर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 18th February, 2014

S.O. 878.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/60/2007) of the Central Govt. Industrial Tribunal-Labour Court, Jabalpur now as shown in the Annexure, in the industrial dispute between the employers of relation to the management of Regional Manager, Security Paper Mill and their workmen, which was received by the Central Government on 18/02/2014.

[No. L-16011/4/2005-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/60/07

Presiding Officer : SHRI R.B. PATLE

General Secretary,
SPM Karmchhari Union,
Regd. No. 3073 C/o Security Paper Mill,
HoshangabadWorkman/Union

Versus

Regional Manager,
Security Paper Mill,
Hoshangabad

.... Management

AWARD

(Passed on this 27th day of September, 2013)

1. As per letter dated 3.7.07 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-16011/4/2005-IR(DU). The dispute under reference relates to:

- “(i) Whether the demand of the SPM Karamchhari Union for grant of pay scales of Rs. 5000—8000 to Senior Assistants *w.e.f.* 1.1.96 is legal and justified? If so to what relief the workmen are entitled to?
- (ii) Whether the action of the management of General Manager, Security Paper Mill, Hoshangabad is not granting the ACP Scheme to Group B, C & D employees on completion of 12 and 24 years is legal and justified? If not, to what relief these workmen are entitled to ?
- (iii) Whether the demand of SPM Karamchhari Union for filling up of the vacancies to the post of Head Time Keeper from amongst the senior assistants with 5 years of services and LDC with 7 years of services is legal and justified? If so, to what relief the workmen are entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party Union submitted statement of claim at Page 5/1 to 5/6. The case of Ist party Union is that it had submitted charter of demands to the management claiming pay scale of Rs. 5000—8000 for Sr. Assistants *w.e.f.* 1.1.96, benefit of ACP Scheme to Group B, C & D employees on completion of 12 and 24 years service, for filling up of the vacancies to the post of Head Time Keeper from amongst the senior assistants with 5 years of services and LDC with 7 years of service. Above demands were not accepted by the management. The Union had given strike notice under Section 22 of I.D. Act opposing to go on strike. After expiry of 31 days, persuing his demands, the Union has also submitted other demands which are not referred for adjudication:

3. Union submits that before implementation of Vth Pay Commission report, junior Assistant in the establishment of IInd party was placed in Pay Scale 1350—2200 and Sr. Assistant were placed in Pay Scale 1400—2300. When Part-A of Vth Commission Report were implemented, both junior Assistant and Sr. Assistant were placed in common revised Pay Scale 4300—7000 *w.e.f.* 1.1.96. That General Manager, Security Paper Mill, Hoshangabad *i.e.* after getting approval order form Ministry of Finance and economic affairs *vide*

order dated 31.1.02 revising pay of Sr. Assistant from 4500-7000 to refuse 5000-150-8000 *w.e.f.* 1.1.96. That said order was kept in abeyance to the detriment of the members of the Union. The implementation under part B revised Pay Scale, Asstt. were placed in Pay scale 1400-2300 were placed in Revised Pay Scale 5000-8000. The Assistants were getting pay scale after implementation of Part B Pay Scale. That Sr. Assistants who were higher in rank were not placed in said pay scale. As such the members of the Union are designated without logical reasons. Ist party union also submits that as per Central Civil Services, Revised Scales para 46.9 of the Vth Commission Report Sr. Assistant who are members of Union are entitled to revised pay 5000-8000.

4. IInd party management Written Statement. The claim of Union is denied that the workman is minority Union. That management made repeatedly clear that its demands are neither reasonable or feasible. There was no evasive reply of management during conciliation proceedings. That in 1992 after implementation of NPC, the then posts of LDCs (Pay Scale 950-1500) and UDCs (Pay Scale 1200-2040) were upgraded as Junior Assistant in Pay Scale 1350-2200 and Senior Assistant in Pay Scale 1400-2300. That in Para 66.62 of Vth CPC, the present designations and pay scales of Junior Assistants and Senior Assistants are based on a specialized scientific study done by independent agency therefore it is not desirable to make any change in the designations. IInd party reiterated that demand of Union for pay scale of Rs. 5000-8000 for Sr. Asstt. is not rational or justified. Other contentions of the Union are denied. IInd party prays for rejection of the claim.

5. Union submitted rejoinder reiterating its contentions in Statement of claim filed by them.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|-------------------------------------|
| (i) Whether the demands of Union claiming pay scale of Rs. 5000-8000 for Sr. Assistants <i>w.e.f.</i> 1.1.96, benefit of ACP Scheme to Group B, C & D employees on completion of 12 and 24 years services, for filling up of the vacancies to the post of Head Time Keeper from amongst the senior assistants with 5 years of services and LDC with 7 years of service is legal? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | Relief prayed by Union is rejected. |

REASONS

7. Though the Union submitted statement of claim justifying his demand under reference. The Union failed to

participate in the reference proceeding. Union failed to adduce any evidence to substantiate his demands under reference. On the other hand, management filed affidavit of its witness Shri K. N. Mahapatra covering contentions in Written statement filed by the management. Management's witness was corss-examined. In his cross-examination, management's witness says the department had correspondence with the finance deptt. He was unable to tell on what basis the pay scale was denied by the Finance Deptt. that after the order dated 20.4.06 passed by CAT, the order of 2002 was cancelled. The copy of the order passed by CAT bench Jabalpur in Original Application No. 707/06 is produced at Exhibit M-1.

In para-9 of the judgement, Hon'ble members of the CAT observed the perusal of above would establish that erstwhile post held by the applicant had been upgraded only in the year 1992 and Vth CPC in its recommendation specifically observed that present designations and pay scales of Junior Assistants and Senior Assistants in Security Paper Mill are based on specialized scientific study done by an independent agency and therefore it did not require any change either in pay scale or in designations.

The copy of order dated 20.4.06 is produced withdrawing order dated 31.1.2002. Union has not adduced evidence to substantiate the demands under reference. Therefore I record my finding on Point No. 1 in Negative.

8. In the result, award is passed as under:—

- (1) Demand of Union claiming pay scale of Rs. 5000-8000 for Sr. Assistants *w.e.f.* 1.1.96, benefit of ACP scheme to Group B, C & D employees on completion of 12 and 24 years service, for filling up of the vacancies to the post of Head Time Keeper from amongst the senior assistants with 5 years of services and LDC with 7 years of service are not justified.
- (2) Relief prayed by Union is rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 फरवरी, 2014

का०आ० 879.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वाईस चांसलर, बाबासाहेब भीमराव अंबेडकर यूनिवर्सिटी एण्ड अदर्स के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय लखनऊ के पंचाट (संदर्भ संख्या 26/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/02/2014 को प्राप्त हुआ था।

[सं० एल-42025/03/2014-आईआर (डीयू)]

पी० के० वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 19th February, 2014

S.O. 879.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 26/2011) of the Central Government Industrial Tribunal/Labour Court Lucknow now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of The Vice Chancellor, Babasaheb Bhimrao Ambedkar University & Others and their workmen, which was received by the Central Government on 19/02/2014.

[No. L-42025/03/2014-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, LUCKNOW

PRESENT

Dr. MANJU NIGAM, Presiding Officer

I.D. No. 26/2011

BETWEEN

Shri Anand Kumar S/o Shri Gaya Prasad &
three others C/o Shri Parvez Alam,
Labour Law Advisor R/o 283/63 Kha,
Garhi Kanora (Premwati Nagar)
PO-Manak Nagar, Distt.-Lucknow-2.

AND

1. Vice Chancellor
Babasaheb Bhimrao Ambedkar University (C)
Vidhya Vihar, Raibareilly Road, Lucknow-226025.
2. Shri Samir Kumar Dixit
Garden Inspector
Babasaheb Bhimrao Ambedkar University (C)
Vidhya Vihar, Raibareilly Road, Lucknow-226 025.

AWARD

1. The present industrial dispute has been filed by the workmen, Anand Kumar & three others under provisions contained in the Section 2A of the Industrial Disputes Act, 1947 (14 of 1947) against alleged termination of their services by the management of Babasaheb Bhimrao Ambedkar University (C), Vidhya Vihar, Raibareilly Road, Lucknow for adjudication before this CGIT-cum-Labour Court, Lucknow.

2. The case of the workmen, in brief, is that the workman, Anand Kumar and Suresh Kumar Kanaujia were appointed under the opposite parties on 03.03.2008 on the post of Gardner; whereas workman *viz.* Ram Karan was appointed on 03.09.2007 on the post of Gardner; and Rajesh Kumar Sonkar was appointed on the post of Security Guard on 02.01.2006 and worked continuously for more than 240 days. It is alleged by the workmen that the opposite party used

to pay less wages to them for which they asked the opposite party to pay full wages and in turn the opposite party being annoyed terminated their services orally, 30.01.2010 without giving any notice or notice pay in lieu thereof, in violation to the provisions contained in Section 25F of the Industrial Disputes Act, 1947. It has also been alleged by the workmen that the management retained the junior in service and has engaged new faces after their termination, which amounts to violation of Section 25 G & H of the Industrial Disputes Act, 1947. Accordingly, the workman has prayed that their termination by the management be declared illegal and they may be reinstated with consequential benefits including back wages.

3. The opposite parties have filed written statement, denying the claim of the workmen; the contents of the written statement have neither been verified nor supported by any affidavit. The management has taken objection that the workmen do not fall within the definition of 'workman' u/s 2 's' inasmuch as it is not an 'industry' within the purview of the section 2 'j' the Industrial Disputes Act, 1947. In this regard it has relied on University of Delhi & another *Vs.* Ram Nath AIR 1963 SC 1873. It has denied the appointment of the workman by it at any point of time; however, it has been submitted by the management that the workmen were engaged through an agency *viz.* Good House Keeping, 313, Suraksha II, Eldeco II, Raibareilly Road, Lucknow to carryout sewage & cleaning works and no payment was ever made to the workman by the institution directly; however the payments were made by the University to the agency and then agency used to make payment directly to the workmen. Accordingly, the management has prayed that the claim of the workmen be rejected any benefit to them.

4. The workmen have filed rejoinder wherein apart from reiterating the averments already made, the workmen relying on Bangalore Water Supply & Sewerage Board *Vs.* A. Rajappa 1978 (2) SSC 213, have submitted that the Universities are well within the definition of 'industries'. It has been submitted that the employers be asked to file 'principle employer' registration certificate and registration certificate of M/s Good House keeping as contractor to verify the facts.

5. The parties have filed photocopy of documentary evidence in support of their respective claim. The workmen have filed their evidence on affidavit; whereas the management did not turn up to cross-examine them.

After filing of evidence of the workmen, 28.03.2012 was fixed for cross-examination of the workmen's witness; but none turned up from management to cross-examine the workmen; however the workmen were present to get cross-examined. Likewise, the workmen were present on 10.05.2012, 21.06.2012, 07.08.2012 and 28.08.2012; but neither the management nor its authorized representative turned up to cross-examine the workmen, which led to fixing the next date *i.e.* 18.10.2012 for argument. The management

once again was reluctant to forward its argument, in spite of several dates being given *i.e.* 18.10.2012, 23.11.2012, 16.01.2013, 01.03.2013, 22.04.2013, 04.06.2013, 26.07.2013, 09.09.2013, 17.10.2013, 02.12.2013 and 16.01.2013; but none turned up from the management either to get the order, barring them to cross-examine the workman recalled or to forward their argument on merits of the case. Accordingly, the arguments of the authorized representatives of the workmen were heard and the case was reserved for award keeping in view the reluctance of management and long pendency of the case.

6. Heard the authorized representative of the workmen and perused entire evidence available on record.

7. The authorized representative of the workmen has argued that the management appointed the workmen as Gardner/Security Guard and paid less salary and when the workmen demanded for proper salary the management terminated their services in violation of Section 25 F of the Act; and also did not observe the rule of last come first go while terminating their services and also inducted new workmen in their place and accordingly violated the provisions of Section 25 G & H of the I.D. Act. It was also submitted that the applicant are well within the definition of 'workman' as defined in Section 2 's' and the University is an 'industry' within the meaning of Section 2 'j' of the Act. It was further contended that the management could not produce the 'principal employer' registration certificate and registration certificate of M/s. Good House Keeping which goes to show that the pleading of the management that the workmen were supplied by the agency under a contract is nothing but to escape from their liabilities.

8. I have given my thoughtful consideration to the contentions of the authorized representative of the workmen and perused respective pleading of parties and supportive evidence.

9. At the outset of the case, it has come from the management that it is neither an 'industry' nor the applicant is 'workman' within the provisions of the Industrial Disputes Act, 1947. In this regard, Hon'ble Apex Court in Bangalore Water Supply & Sewerage Board etc. Vs. A Rajappa & others case; wherein it has been observed that

"absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector."

Hon'ble Apex Court has further observed that

"where (i) systematic activity (ii) organized by co-operation between employer and employee (the direct and substantial element is commercial (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss

i.e. making on a large scale Prasad or food) prima facie, there is an industry in that enterprise."

The management has come up with the case that the Babasaheb Bhimrao University is engaged in imparting education and it is discharging the function which is neither domestic nor commercial in nature; and it does not qualify the various tests which may put its activities as an 'Industry'. In rebuttal, the workman has contended that the University is indulged in imparting education for which handsome fee is charged from the students; and also, the activity carried out by the University is no 'sovereign' in nature as there are so many private universities, which are also delivering education like the opposite party hence; it comes within the purview of 'Industry'. It has been further contended that the activities observed by the University qualify the triple test formulated by Bangalore Water Supply case.

Thus, in view of facts and circumstances of the case and above legal propositions, I am of considered opinion that the opposite party management *i.e.* Babasaheb Bhimrao University is not discharging sovereign function of the State; and accordingly, come to the conclusion that the opposite party is an 'industry' within the provisions of Section 2 (j) of the Industrial Disputes Act, 1947.

10. The opposite party has also taken the objection that the applicants are not 'workman' as defined in the Section 2(s) (iv) of the I.D. Act, 1947. The workman has denied the contention of the management. Section 2(s) of the Industrial Disputes Act, 1947 defines 'workman' as under:

2. "(s) 'workman' means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person-

(i)

(ii)

(iii)

(iv) who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature."

In this regard the onus was on the management to come forward with evidence such as details of work liabilities in respect of workman and powers conferred upon him to show that the applicant was actually engaged in managerial or supervisory work; but the management has utterly failed to do so, in as much as, apart from the pleading it has not corroborated the same with cogent documentary evidence. On the contrary the workman has pleaded and proved the same through their affidavit that they have been appointed as Gardner/Security Guard which is not managerial or supervisory in nature. Also, it is not denied that the workman had not worked with the opposite party only it has been stated that workmen were engaged through an agency; the onus is on the opposite party to explain in what capacity they have been inducted with the opposite party, which puts them out of the purview of the definition of 'workman'. Therefore, on the basis of the evidence on record, I am of the opinion that the applicants are 'workman' as defined in the Section 2 's' of the Act.

11. The workmen have come up with the case that they have been appointed by the management and they worked continuously for more than 240 days with the management and the management terminated their services in violation to the provisions of Section 25F of the Act. On the contrary the management has come up with the case that the workman were engaged through an agency *viz.* Good House Keeping and the payments were made to the agency, which used to pay the workman directly; therefore, there was no employer and employee relationship between the opposite party and the workman. The management has also filed photocopy of notice inviting tender, letter submitting tender by M/s. Good House Keeping, letter regarding submission of bills before University by the agency, payment sheets & attendance sheets of the Agency. The workman has not filed any document in rebuttal.

12. On scrutinizing the documents submitted by the management it comes out that the photocopy of the 'notice inviting tender' regarding 'Job Labour Supply does not pertain to the opposite party *i.e.* Babasaheb Bhim Rao University; but it pertains to the Central Institute of Medicinal and Aromatic Plants, Lucknow; hence have no significance. Further, the letter dated 14.11.2008 regarding submission of quotation of supply of various type of labours from M/s. Good House Keeping does not bear any reference of any 'notice inviting tender' from the management and secondly it is not supported with the Labour Contract License, issued by the appropriate authority; hence the quotation of the agency is invalid one. Also, the management could not produce any certificate regarding registration as 'Principle Employer' before the competent authority, therefore, it could not be said that there was any valid contract between the opposite party and the agency for supply of the contract. The workman has relied on *Secretary, Haryana State Electricity Board vs. Suresh & others* 1999(81) 1016 wherein Hon'ble Apex Court has observed that when the workmen have

worked for a year and completed 240 days, there existed a relationship of employer and workmen. Also, no genuine contract labour system prevailing with the bard and so called contractor was a mere name lender with a contract license and even the Board was not registered as principal employer the so called contract system was a mere camouflage.

The management has just pleaded that it has not appointed the workman; but has engaged the workmen through a contracting agency *viz.* Good House Keeping; but has not substantiated its pleading through evidence. On the contrary the workman has pleaded that it has worked with the management for 240 days and their services have been terminated in violation to the provisions of the I.D. Act and has well proved his pleading through by filing an affidavit. Hon'ble Apex Court in *State of U.P. vs. Sheo Shanker Lal Srivastava & others* (2006) 3 SCC 276 has observed that the statement of the witness, having not been controverted would be deemed to be admitted. Therefore, in light of the above law, there is no reason to discard the submissions made by the workman in his evidence that the worked continuously for 240 days from the date of appointment till the date of termination *i.e.* 30.01.2010 and his services have been terminated in violation of the provisions of Section 25F of the Industrial Disputes Act, 1947.

13. In view of the discussions made hereinabove and law cited, I am of considered opinion that there was no contract between the management and the so called agency for supply of labourers and the workmen worked with the management of Babasaheb Bhim Rao Ambedkar University and the services of the workmen have been terminated in violation to the provisions of the section 25F of the Industrial Disputes Act, 1947. The workmen have pleaded that they had been appointment by the opposite party; but have not produced any appointed letter etc. to substantiate their claim that they ever went through the prescribed procedure for appointment. The services of the workman were terminated on 30.01.2010. In *Haryana Roadways vs. Rudhan Singh* (2005) 5 SCC 591; 2005 SCC (L&S) 716 Hon'ble Apex Court while considering the question regarding award of back wages has observed:

"There is no rule of thumb that in every case where the Industrial Tribunal gives a finding that the termination of service was in violation of section 25F of the Act, entire back wages should be awarded..... However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period *i.e.* from the date of termination till the date of the award, which our experience shows is often quite large, would be wholly inappropriate. Another important factor, which required to be taken into consideration, is the nature of employment. A regular service of

permanent/character cannot be compared to short or intermittent daily wage employment though it may be for 240 days in a calander year.”

14. In *Deepak Ganpat Tari Vs. N.E. Theater Pvt. Ltd.* 2008 (119) FLR 877 Hon'ble Bombay High Court relying on the Hon'ble Apex Court's judgement in *APVK Brahmandandam* 2008 (117) FLR 1086(SC) *Telephone DM Vs. Keshab Deb* 2008 (118) FLR 376(SC) *JDA Vs. Ram Sahai* 2006 (111) FLR 1178 (SC), while awarding compensation of Rs. 1,50,000 to the concerned workman considering his daily wages as Rs. 45 in view of the fact that the workman had put in about 3 years of service, has observed as under:

“It is apparent that termination of services of a daily wagger does not amount to retrenchment and for violation of section 25F in such circumstances, the employee cannot be given benefit of reinstatement with continuity and back wages. Hon'ble Apex Court has hold that in such circumstance employee is entitled to benefit of compensation only.”

15. Also, in *Jagbir Singh Vs. Haryana State Agriculture Mktg. Board* (2009) 15 SCC 327: (2010) 1 SCC (L&S) 545: Senior Superintendent Telegraph (Traffic), Bhopal Vs. Santosh Kumar Seal and others (2010) 2 SSC (L&S) 309 Hon'ble Apex court has observed as under:

“However, in recent past, there has been a shift in the legal position and in a along line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.

The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wagers has not been found to be proper by this Court and instead compensation has been awarded.”

16. In the light of principle laid down in aforementioned case laws, it would not be just and proper to direct that the workman be reinstated in service as they were not appointed with the opposite party, following due procedure for recruitment. The ends of justice would meet by paying compensation to the workman instead in place of relief of reinstatement in service.

17. Having regards to these facts that the workman has worked after engagement through an agency at the time of his alleged termination and keeping in view the entire facts of the case and the law, the interest of justice would be subserved, if, management is directed to pay lump sum amount of compensation only.

18. Accordingly, the management is directed to pay a sum of Rs. 1,00,000 (Rupee One Lakh only) to each of the workmen as compensation for termination of their services in violation of section 25F of the I.D. Act. The said amount shall be paid to the workmen within 08 weeks of publication of the award, failing which; the same shall carry interest @ 8% per annum.

19. The reference is answered accordingly.

Lucknow Dr. MANJU NIGAM, Presiding Officer
20th January, 2014.

नई दिल्ली, 19 फरवरी, 2014

का०आ० 880.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 125/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 19.02.2014 को प्राप्त हुआ था।

[सं एल०-22012/298/2001-आई आर (सी-एम-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 19th February, 2014

S.O. 880.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 125/2002 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of Makardhokda Sub Area of WCL, and their workman, received by the Central Government on 19.02.2014.

[No. L-22012/298/2001-IR(CM-II)]

B.M. PATNAIK, Desk Officer

ANNEXURE

BEFORE SHRI J.P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/125/2002

Date: 30.12.2013

Party No. 1: The Dy. General Manager,
Makardhokda Sub Area of WCL,
The Umrer, Distt. Nagpur

Versus

Party No. 2 : The President, Rashtriya Koyla Khadan
Mazdoor Sangh (INTUC),
Makardhokda Sub Area Branch,
Plot No. 604, Behind Giripeth Post Office,
Opp. R.T.O., Nagpur

AWARD

(Dated: 30th December, 2013)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act": in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Makardhokda Sub Area of WCL and their workman, Shri Umesh Giradkar, for adjudication, as per letter No. L-22012/298/2001-IR(CM-II) dated 09.07.2002, with the following schedule:—

"Whether the action of the management of WCL, Makardhokda Sub Area, The. Umrer, Distt. Nagpur in not giving promotion to Shri Umesh Giradkar from mechanical Fitter Helper Category II to Mechanical Fitter Category-IV *w.e.f.* 09-12-2000 is legal and justified? If not, to what relief is the said workman entitled and from which date?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, Shri Umesh G. Giradkar, ("the workman" in short), filed the statement of claim and the management of Makardhokda Sub Area of WCL, ("Party No. 1" in short) filed their written statement.

The case of the workman as projected in the statement of claim is that he was initially appointed as Mechanical Fitter Helper at Umrer Colliery on 22.08.1996 and he was senior to the employees, namely, Shri Gopichand Rewatkar and Shri Sanjay Waghmare, who were appointed on 07.05.1997 and though he was the senior most employee and he was shown as senior in the seniority list maintained by Party No. 1, Party No. 1 illegally gave promotion to Shri Gopichand Rewatkar, Shri Sanjay Waghmare and one Shri Santosh Choudhury, Who was also junior to him, by overlooking his case and as such, he approached the Labour Commissioner raising the dispute and ultimately, the reference was made for adjudication. The further case of the workman is that the Party No. 1 did not maintain the seniority list properly and promotion was given to persons, who were not entitled for such promotion and even though, he was entitled for promotion to the post of Mechanical Fitter Category-IV, he was not given the promotion.

The workman has prayed to direct the Party No. 1 to give him promotion to the post of Mechanical Fitter Category IV and to pay the increments and deferential back wages.

The Party No. 1 denying all the adverse allegations made in the statement of claim, has pleaded in the written statement *inter alia* that the workman was initially appointed on 22.08.1996 as a general mazdoor category II and as he was an I.T.I. candidate, he was designated as Mechanical Fitter *w.e.f.* 01.07.1998 and he was notionally

placed in category-III, *w.e.f.* 01.01.2000 and the workman was given promotion as Mechanical Fitter Category-IV *w.e.f.* 03.07.2004.

It is further pleaded by the Party No. 1 that the workman was not the senior most employee amongst the candidates eligible for the D.P.C. for the post of Mechanical Fitter Category IV and the workman was the junior most candidate, as the date of his coming to Ccategory II was 01.07.1998 and the dates of other candidates coming to Category II were earlier to the workman and the dates coming to Category II of the employees, namely, Shri Gopichand Rewatkar, Shri Sanjay Waghmare and Shri Santosh Choudhury were 01.01.1998, 01.01.1998 and 24.03.1998 respectively. It is also pleaded by Party No. 1 that promotions to the employees are being given, by taking in to consideration the date of their coming to the present grade and if the date of coming to the present grade is the same, then they have to more back to the date of coming to the previous grade and if that too is same, then their date of appointment is compared and if that too is same, then the date of birth is considered and the oldest person is promoted as per the procedure and the workman has claimed promotion directly switching on to the date of appointment, which procedure is not adopted by it and it maintains the seniority list of the employees of a particular grade and gives promotions to the eligible candidates according to the seniority in that particular grade and junior candidates were not given promotion overlooking the workman and though the appointment of the workman was earlier to the appointment of Shri Gopichand Rewatkar and Shri Sanjay Waghmare, promotions were made on the basis of cadre scheme applicable with sanctioned man power budget and further on the recommendation of the Departmental Promotion Committee and as such, the claim of the workman for promotion from back date and back wages is not maintainable and the workman is not entitled to any relief.

4. Apart from placing reliance on documentary evidence, both the parties have led oral evidence in support of their respective claim.

The workman has examined himself as a witness in support of his case. In his examination-in-chief, which is on affidavit, the workman has reiterated the facts mentioned in the statement of claim. The further evidence of the workman is that authorization was given by the management to him as mechanical helper Category-II on 28.04.1997, 13.06.1997 and again on 01.01.1998 and he was due to get promotion, in view of the vacant post of mechanical fitter Category-IV and on the basis of manpower budget for the year 1999-2000 and as he was senior to Gopichand Revatkar and Sanjay Waghmare. The workman has also proved the documents filed by him in support of his claim as Exts. W-II to W-IX.

In his cross-examination, the workman has admitted that his initial appointment was a Mazdoor cat. II and the promotion of the employee, whose promotion has been challenged by him were also initially appointed as Mazdoor cat. II and after the reference, he was promoted from category-II to category-IV and then to category-V and as per the document, Ext. W-III, he was designated as Mechanical fitter helper w.e.f. 01.01.1998 and the contents of Ext. W-III, are not correct.

5. The witness for the party no. 1 has also reiterated the facts mentioned in the written statement, in his examination-in-chief on affidavit. This witness has also proved the documents filed by party no. 1 as Exts. M-VI to M-VII.

In the cross-examination, Shri Shailendra Shende, the witness for party no. 1 has admitted that the workman was authorized to work as Mechanical fitter, category-II on 28.04.1997 and Shri Gopichand Rewatkar and Shri Sanjay Waghmare were appointed initially as mazdoor category-II on 07.05.1997 and copies of authorization letter in favour of Gopichand Rewatkar and Sanjay Waghmare to work as Mechanical Fitter Category-II have not been filed by the management in this case and the nature of the work of the five employees, whose names were mentioned in Ext. W-III i.e. the order dated 07.05.1999, was not changed and there was also no increase in their basic pay.

The witness for the party no. 1 in his cross-examination has further admitted that the initial appointment of Gopichand Rewatkar and Sanjay Waghmare was made after the initial appointment of the workman and he cannot say as to why in Ext. W-III, Rewatkar and Waghmare were designated as Mechanical Fitter helper from 01.01.1998 and the workman was designated as such on 01.07.1998 and it is not permissible to issue letter of regularisation or redesignation of an employee within six months of the date of his appointment and he cannot say if to deprive the workman from promotion in due date, he was designated as Mechanical Fitter helper w.e.f. 01.07.1998, instead of designating him in that post earlier than Gopichand and Sanjay Waghmare.

6. At the time of argument, it was submitted by the learned advocate for the workman that the workman was appointed as a General Mazdoor category-II on 22.08.1996, where as Shri Gopichand Rewatkar and Shri Sanjay Waghmare were appointed as such on 07.05.1997 and Shri Gopichand and Shri Sanjay were much junior to the workman and though the workman was given authorization as Mechanical Helper category-II on 28.04.1997, which was even earlier to the initial appointment of Shri Gopichand and Shri Sanjay, with mala fide intention, vide the document, Ext. W-III, the workman was shown to be designated as Mechanical Helper category-II w.e.f. 01.07.1998 and Shri Gopichand and Shri Sanjay were shown to be designated as Mechanical Helper grade II w.e.f. 01.01.1998 and the order as per Ext. W-III was passed only to deprive the workman from promotion, when it was due to him and such facts have been amply proved

from the admission of the witness for the party no. 1 in his cross-examination and as such, the workman is entitled for promotion to mechanical fitter category-IV w.e.f. 09.12.2000, the date on which his juniors, Shri Gopichand and Shri Sanjay were given promotion.

7. Per contra, in the written notes of argument, it was submitted by the learned advocate for the party no. 1 that the workman was initially appointed as general mazdoor category-II and he was designated as Mechanical Fitter w.e.f. 01.07.1998 and the workman has already been promoted as Mechanical Fitter category-IV w.e.f. 03.07.2004 and at present, he is working as category-V and the workman has admitted such facts and the workman was never the senior most amongst the candidates eligible for the DPC for the post of Mech. Fitter Cat.-IV as claimed by him, rather, he was the junior most candidate and promotions are given to the employees, by taking into consideration the date of coming to present grade and if the date of coming to the present grade of two or more employees is the same, then the dates of their coming to previous grade are taken into consideration and if that too are the same, then the dates of their appointment is compared and if that too are the same, then their dates of birth are considered and the oldest person is promoted as per the procedure and the workman in this case is directly switching on to the date of appointment, which is not the correct procedure for promotion and it is not disputed that the appointment of the workman was earlier to the appointment of Shri Gopichand and Shri Sanjay, but promotions are made on the basis of cadre scheme applicable with sanctioned man power budget and further on recommendation by the Departmental Promotion Committee and hence, the workman is not entitled to any relief.

8. Perused the record including the evidence adduced by the parties. It is the admitted case of the parties that the workman was engaged initially as general mazdoor category-II on 22.08.1996, whereas, Shri Gopichand and Shri Sanjay were appointed as general mazdoor category-II on 07.05.1997. So, it is clear from such admitted facts that the workman is senior to Shri Gopichand and Shri Sanjay in appointment.

Accordingly to the party no. 1, for consideration of promotion the date of coming to the present category is considered as per the cadre scheme and as the date of coming to the present category i.e. Mechanical fitter helper category-II of the workman was 01.07.1998 and the date of coming of Shri Gopichand and Shri Sanjay to Mechanical fitter helper category-II was 01.01.1998, Shri Gopichand and Shri Sanjay were senior to the workman in the present grade and as such, they were given promotion to mechanical fitter category-IV, as per the recommendation of the DPC and there was no illegality in its action in not giving promotion to the workman.

Admittedly, in Ext. W-III, the workman has been shown to be designated as Mechanical Fitter Category-II w.e.f. 01.07.1998, whereas, both Shri Gopichand Rewatkar and Shri Sanjay Waghmare have been shown to be designated as Mechanical Fitter category-II w.e.f. 01.01.1998. However, documents Exts. W-VII, W-VIII and W-IX and the admission of the witness for party no. 1 show that the entries in Ext. W-III are not correct. The documents, Exts. W-VII to W-IX are documents issued by party no. 1 Ext. W-IX shows that the workman was authorized as Mechanical helper on 28.04.1997. Likewise, Exts. W-VIII and W-VII show that the workman was again authorized as Mechanical Fitter helper on 13.06.1997 and 01.01.1998 respectively. Party No. 1 has not come up with any case as to why Shri Gopichand and Sanjay, who joined in service as general mazdoor category-II on 07.05.1997 were designated as Mechanical Fitter Category-II w.e.f. 01.01.1998 and the workman, who joined the service on 22.08.1996 and was already authorized as Mechanical Fitter helper on 28.04.1997, 13.06.1997 and 01.01.1998 was shown to be designated as Mechanical Fitter Helper category-II w.e.f. 01.07.1998.

The witness for party no. 1 in his cross-examination has admitted that on 28.04.1997, the workman was authorized to work as Mechanical fitter category-II and he cannot say as to why Rewatkar and Waghmare were designated as such on 01.01.1998 and as to why the workman was shown to be designated as such on 01.07.1998, instead of designating him in that post earlier to Gopichand and Sanjay Waghmare.

So, from the materials on record, it is found that the workman was also senior in the present grade, i.e. Mechanical Fitter Category II than to Shri Gopichand and Shri Sanjay.

9. Ext. M-VII is the proceedings of the Departmental Promotion Committee held on 04.12.2000 for promotion of Elec/Mechanical Fitter Helper cat. II to Elect/Mechanical Fitter Cat.-IV of UG & OC. Ext. M-III is the promotional channel of E&M Personnel (Mechanical Fitter). On perusal of the aforesaid documents, it is found that the promotion to Mechanical Fitter Category-IV from Mechanical Fitter Helper category-II is based on seniority and recommendation of the DPC. As it is already held that the workman was senior to Shri Gopichand Rewatkar and Sanjay Waghmare in Mechanical Fitter helper category-II and Ext. W-III is not a genuine document, the workman was and is entitled for promotion as Mechanical Fitter Category-IV w.e.f. the date on which Shri Gopichand Rewatkar, Shri Sanjay Waghmare and Shri Santosh Choudhary were given promotion to the said category i.e. category-IV. The workman is also entitled for consequential promotions and other benefits including the differential back wages. Hence it is ordered:—

ORDER

The action of the management of Wcl, Makardhokda Sub Area, The Umrer, Distt. Nagpur in not giving promotion to Shri Umesh Giradkar from Mechanical Fitter Helper Category II to Mechanical Fitter Category-IV w.e.f. 09.12.2000 is illegal and unjustified. The workman is entitled for promotion as Mechanical Fitter Category-IV from the date on which, Shri Gopichand Rewatkar, Shri Sanjay Waghmare and Shri Santosh Choudhary were given promotion. The workman is also entitled for the consequential promotions and other benefits including the differential backwages. Party no. 1 is directed to implement the award within one month of the publication of the award in the Official Gazette.

J. P. CHAND, Presiding Officer

नई दिल्ली, 19 फरवरी, 2014

का०आ० 881.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू सीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 53/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/02/2014 को प्राप्त हुआ था।

[सं० एल-22012/53/2005-आई आर (सी एम-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 19th February, 2014

S.O. 881.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 53/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of Chandrapur Area of WCL, and their workmen, received by the Central Government on 19/02/2014.

[No. L-22012/53/2005-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE SHRI J.P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/53/2005

Date 30.12.2013.

Party No. 1: The Chief General Manager,
M/s. Western Coalfields Limited,
Chandrapur Area,
Chandrapur. (MS).

Versus

Party No. 2: Shri G.V.R. Sharma,
Joint General Secretary,
Rashtriya Koyla Khadan Mazdoor
Sangh, (INTUC), 604, Giripeth, Nagpur.

AWARD

(Dated: 30th December, 2013)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of WCL and claimant, Shri Sheikh Nabi, for adjudication, as per letter No. L-22012/53/2005-IR (CM-II) dated 29.06.2005, with the following schedule:—

"Whether the action of the management of M/s. Western Coalfields Limited through the Chief General Manager, Chandrapur Area, PO & Distt. Chandrapur in rejecting the demand of employment of Shri Sheikh Nabi S/o. Sheikh Roshan being nominee of Land Oustee namely Late Mohammed Yusuf, whose Land admeasuring 2.53 hectares was acquired by M/s. WCL on 20.03.1978, is legal and justified? If not, to what relief the concerned workman is entitled?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the Union, Rashtriya Koyala Khadan Mazdoor Sangh, ("the Union" in short) filed the statement of claim on behalf of Shri Sheikh Nabi, ("the claimant" in short) and the management of WCL, ("Party No. 1" in short) filed their written Statement.

The case of the claimant as projected by the union in the Statement of claim is that it is a registered trade union under the Trade Unions Act, 1926 and Party No. 1 is a fully owned Government Coal Company and is a "State" within the meaning of Article 12 of the Constitution of India and Mahakali Colliery was a closed mine, when it was taken over and nationalized in 1973, as per Coal Mines (Nationalization) Act, 1973 and the said colliery was reopened in the year 1974 and subsequently, coalmining activities were started and coal production started sometime in the year 1975 and for coal mining into deeper level, Party No. 1 felt the necessity of acquiring some land above the ground, for installation of ventilation fan and the management found the lands belonging to Shri Mohd. Yusuf Hasan Ali of Chandrapur and Shri Laxmanrao Wasekar, suitable for the said purpose and started negotiation with the said persons and an area of 0.7 hect. in Khasara No. 442 and 0.60 hect. in Khasara No. 443 of Mouza Chanda Rayatwari belonging to Mohd. Yusuf Hasan Ali and also an area of 8.75 hect. of land in Khasara Nos. 469/4, 469/5, 491 and 492 of Mouza Chanda Rayatwari belonging to Laxman Krishnaji Wasekar were purchased and acquired by Party No. 1 by direct negotiation on 03.04.1980 and Party No. 1 installed ventilation fan in the said acquired land and as the lands acquired from the said land owners were for the purpose of mining activities, the said land oustees were required to be rehabilitated by the

management by giving employment to their nominees, as per the policy and guidelines of the Central Government, but the Party No. 1 did not give employment to the nominees of the said land oustees and after a gap of 16 years, on 21.03.1996, Shri Raju S/o Vijay, the grandson and nominee of land oustee, Laxmanrao Wasekar was given employment and he has been working in Hindustan Lalpeth Colliery of WCL and coming to know about the employment of the nominee of Laxmanrao, Mohd. Yusuf Hasan Ali requested the Party No. 1 to give employment to his nominee, Sk. Nabi Sk. Roshan, which was not entertained by the management of WCL on flimsy ground of belated claim and rejection of the claim of Mohd. Yusuf Hasan Ali to give employment to his nominee by Party No. 1 is totally unjustified and illogical.

It is further pleaded by the union that Party No. 1 had entered into a settlement with RKKMS union on 02.11.1992 to finalize the pending cases for giving employment to the nominees of land oustees of Pench, Kanhan, Nagpur and Chandrapur Areas expeditiously keeping in view the norms/practice prevalent in the respective areas at the time of acquisition of land by WCL and the said settlement is still operative and the said settlement is having binding force on both the parties and the practice as well as norms to give employment to the nominee of land oustee in the year 1980 was that the land oustees, nominees whose ever having any relation to the land oustee or not were being given permanent and regular employment, provided the land acquired from the land oustee is more than 3 acres and as the area of the land acquired from Mohd. Yusuf Hasan Ali was more than 3 acres, his nominee is entitled for employment and the action of the Party No. 1 in giving employment to the nominee of Laxmanrao and denying to give employment to the nominee of Mohd. Yusuf Hasan Ali is totally unfair and unjustified, on the ground that the Party No. 1 being a state cannot discriminate two persons under the same terms of guidelines of giving employment to the land oustees and the nominee of Mohd Yusuf Hasan Ali was aged less than 35 years on the date of making the claim on 29.11.1997 to the management, but subsequently the Party No. 1 through its internal communication rejected the claim stating that the nominee of Mohd. Yusuf Hasan Ali was over aged, which was totally unjustified, because there was abnormal delay on the part of Party No. 1 to convey its decision and during the said period, the nominee crossed the age of 35 years and the nominee was not at fault and in some cases, the Party No. 1 by giving relaxation in the maximum age limit had given employment to the nominees of the land oustees and the Party No. 1 adopted discriminatory attitude towards Shri Sk. Nabi Sk. Roshan to give him employment.

Prayer has been made by the union to direct the Party No. 1 to give Sk. Nabi Sk. Roshan, the nominee of land oustee, Mohd. Yusuf Hasan Ali to give employment in appropriate category commensurate to his qualification and

to pay him arrears of the lowest category wages under NCWA applicable from time to time *w.e.f.* 21.03.1996 till the is given employment.

3. The Party No. 1 in the written statement has pleaded *inter-alia* that the dispute does not fall under the purview of the Act and the claim is a belated claim as the same was raised before the Conciliation Officer on 14.02.2000 *i.e.* 22 years after the acquisition of the land and the claim is belated and suffers from delay and laches and the claim raised on behalf of the land owners, whose lands were acquired, loosely called as land losers are private individuals and as such, the dispute cannot be termed as an industrial dispute as contemplated under Section 2(S) and 2(K) of the Act and an industrial dispute, unless covered by the Section 2(A) of the Act will not be treated as an industrial dispute, unless a body of workers of the establishment is supporting the claim raised by the union and mere lending the name of the union by union Jt. General Secretary, while raising conciliation proceedings or for issuing notice does not amount to espousal of the cause and individual member of the executive body cannot take the character of the entire union and the land owners had not raised the dispute and they were not workmen within the meaning of Section 2(S) of the Act and the reference is not maintainable as name of nominee, Sk. Nabi Sk. Roshan was endorsed by Sk. Mustafa S/o Late Mohd. Yusuf Hasan Ali, who expired on 20.08.1994, which was not supported by documentary evidence in respect of legal heir.

It is further pleaded by the Party No. 1 that land measuring 1.33 hect. of plot no. 442 & 443 which was jointly owned by Mohd. Yusuf Hasan Ali and Aliyabee was acquired on 20.03.1978 in Revenue Case No. 6/Land/22/76-77/Mouza Chanda Rayatwari under Maharashtra Land Revenue Code, 1966 and the name of Sk. Nabi S/o Sk. Roshan, the nephew of land looser, Late Mohd. Yusuf Hasan Ali was nominated by Sk. Mustafa, the son of the land looser for employment on 29.11 1997 and at that time, he was asked to submit the legal heir certificate of Late Mohd. Yusuf Hasan Ali and to send another nomination from and court affidavit of all the legal heirs of their having no objection for providing employment to Sk. Nabi and on further verification of the records, it was observed that Sk. Nabi Sk. Roshan is not a nephew, but he is a cousin brother of Mustafa and Sk. Nabi had crossed the age of 35 years at the time of his nomination and the nomination form was not signed by other co-sharer of the acquired lands and as such, his case was rejected, on the grounds of linear relationship and over age of Sk. Nabi (crossing of 35 years of age) and the case of Sk. Nabi is not the same as the case of Raju Vijay Wasekar and Raju was the direct linear dependent of the land oustee and he was nominated by the land oustee on 29.03.1994 and the two cases are distinguishable with each other and after the settlement dated 02.11.1992, Wage Board Agreements came into operation as a whole in CIL and specifically in WCL and as

such, there is no scope for consideration of the demand on the basis of the settlement dated 02.11.1992 and the nomination of Sk. Nabi in the prescribed format was submitted on 29.11.1997 and on examination of the record, Sk. Nabi was found to be more than 35 years of age, which was one of the conditions to be fulfilled as per the Wage Board Agreement and the Claimant is not entitled to any relief.

4. In the rejoinder reiterating the facts mentioned in the statement of claim, it is pleaded by the union that the Party No. 1 had raised objection regarding raising of the dispute belatedly and the union of having no right to raise the dispute and such objections were rejected by the Conciliation Officer and the Central Government, being satisfied about the existence of an industrial dispute between the management of WCL and the claimant through the union has referred the matter to the Tribunal for adjudication, hence, the Tribunal has jurisdiction to adjudicate the matter and the claim to give employment to the nominee was raised by the land owner much before his death which remained unsettled and the management did not take such pleas before the Conciliation Officer and as such, the pleas taken by the management cannot be entertained and the claimant is entitled for employment and for arrears of wages from 29.03.1994 *i.e.* from the dated on which Shri Raju was given employment.

5. In support of their respective claims, both the parties have led oral evidence, besides placing reliance on documentary evidence.

The union has examined Sk. Nabi, the claimant as a witness in support of the stand taken by it.

One Mr. Anand Rao, Sr. Revenue Inspector of WCL, Chandrapur Area has been examined as a witness on behalf of Party No. 1.

6. Sk. Nabi, the claimant in his evidence on affidavit has reiterated the facts mentioned in the statement of claim. In his evidence, Sk. Nabi has stated that the land oustee, Md. Yusuf Hasan Ali was his paternal uncle, being the younger brother of his father, Sk. Roshan and Md. Yusuf Hasan Ali died on 20.08.1994 and 1.93 hector of land appertaining Khasra No. 441/1 and 442 of Mouza Chanda Rayatwari belonging to his uncle, Md. Yusuf Hasan Ali and 0.60 hector of land of Khasra No. 443 of Mouza Chanda Rayatwari recorded in the name of Aliabi, wife of Md. Yusuf Hasan Ali were acquired by WCL in 1977-78 and Aliabi died on 18.02.2002 and he was nominated by his uncle for employment, but the management did not give him employment.

In his cross-examination, the claimant has admitted that he applied for employment on 29.11.1997 and for acquiring land of holding no. 446 of his father, his father had nominated him for his employment in WCL, but the application for his employment was rejected.

7. Mr. Anand Rao in his examination-in-Chief on affidavit has stated that land appertaining to that plot No. 446 of Sheikh Roshan was acquired by WCL for mining purpose in the year 1976-77 and for acquisition of land of plot No. 446, Sheikh Roshan nominated his son, the claimant Sk. Nabi, but as his claim was not within the norm, the application for employment was rejected. Mr. Anand Rao has further stated that at the said time, land of plot No. 442 and 443 belonging of Md. Yusuf and his wife, Aliabi was also acquired and on 29.11.1997, one Sheikh Mustafa filed an application for employment of the claimant, Sk. Nabi for acquiring of the land of plot Nos. 442 & 443 belonging to Sheikh Mustafa and his wife Aliabi, but the claim for employment of the claimant was not accepted on the ground that the claimant was not the legal heir of Md. Yusuf and the sponsorer, Sheikh Mustafa was not the land oustee, at the time of nomination, the age of Sk. Nabi was above 35 years and he was not eligible for consideration according to the norms and the nomination was made in 1997, after the death of the real owner in 1994 and the claim was filed very belatedly, *i.e.* about 20 years after the acquisition of the land.

In his cross-examination, Mr. Rao has admitted that 3.29 acres of land of Modh. Yusuf was acquired by WCL and for giving employment to the nominee of a land oustee, it is necessary for acquisition of minimum 3 acres of non-irrigated land and 2 acres of irrigated land and Mohd. Yusuf died in the year 1994 and wife of Mohd. Yusuf died subsequently and Sheikh Mustafa was son of Mohd. Yusuf. This witness has also admitted the suggestion given in his cross-examination that on 29.11.1997, Sheikh Mustafa nominated Sheikh Nabi for giving employment, as land oustee. This witness has also admitted in his cross-examination that there is no time limit for submitting application for giving employment to the nominee of land oustee.

8. In the written notes of argument, it was submitted by the union representative that there was a settlement dated 02.11.1992 between the management of WCL and RKKMS union and the employer denied to honour the terms of the said settlement and engaged in unfair labour practice and in the said settlement, the word “nominees” was used and the words “Legal heir” or “linier dependent” have not been used and the terms of the said settlement, provide a right to the land oustee to nominate a person of his choice for employment in WCL against the acquisition of his land by WCL and the said settlement is still in operation and binding on the management and the union and Annexure-D, filed with the affidavit of Shri Anand Rao, the witness for the management shows that the same is a communication dated 19.12.1993 made by the Dy. Secretary to the Government of India, Ministry of Energy, Department of Coal, New Delhi and the same reveals that the parliamentary consultative committee in the meeting held on 13.10.1983 arrived at a consensus about the modalities

of giving employment to land losers and decided to set up a committee for evolving uniform guidelines for employment of land oustee and the witness for the management in his cross-examination has admitted that subsequent to the issue of the communication dated 19.12.1983, no guidelines/norms for the said purpose were issued by the Ministry of Coal and it is the admitted case of the management that 2.5 hectares of land of Mohd. Yusuf Hasan Ali was acquired by it on 20.03.1978 and the name of Shaikh Nabi S/o. Shaikh Roshan was nominated by Shaikh Mustafa, son of Late Mohd. Yusuf Hasan Ali and management had directed to Shaikh Mustafa to submit the legal heir certificate and another nomination form and affidavit showing that all the legal heirs of Modh. Yusuf Hasan Ali did not have any objection to provide employment to Sk. Nabi, but the management has not filed any document in proof of such contention and as such, the contention cannot be entertained and the nomination of Sk. Nabi by Shiekh Mustafa is in conformity to the term 4.1 of the settlement dated 02.11.1992.

It was also submitted in the written notes of argument that the land of Laxmanrao Wasekar was acquired in 1980 and employment was given to his nominee in 1996 and the said facts reveal that there were no norms fixing the time limit for claiming employment for the nominees of the land oustee, hence, the claim of the management that the demand of the union is stale and belated does not hold good and when employment was given to the nominee of Laxmanrao Wasekar, no legal heir certificate was demanded and at the time of the acquisition of the lands of Laxmanrao and Mohd. Hasan Ali, there was no norm or guideline to produce legal heir ship of the nominee to get employment in WCL and as management has not produced and documentary evidence to show the prescribed age limit of the nominees of land oustees to give employment. The submission of the management that Sk. Nabi was over aged being more than 35 years of age on the date of submission of his claim is without support and wage board agreements are different from the matters about offering employment to the land oustee and in NCWAs I to IX, there has been no mention about this subject and the submission made by the management in this regard is required to be rejected and Sk. Nabi is entitled for employment.

9. In the written notes of argument, it was submitted by the management representative that the matter does not fall within the preview of the Act and the dispute has been raised by the Jt. General Secretary of the union on behalf of a private person and the land oustee is not a workman and there was no employer employee relationship between the land oustee and the management and in absence of employer employee relationship, no industrial dispute can be contemplated to exist between them rendering the reference ab initio void and untenable and the action of the Jt. General Secretary to raise the alleged dispute without obtaining any authority from the union by way of a proper resolution

cannot be said to be rightful espousal of the cause by the union and the cause of action had arisen in the year 1978, whereas the alleged issue was raised before the ALC on 14.02.2000, after a gap of nearly 22 years, which is highly belated and such belated dispute is neither fit for reference nor for adjudication and belatedness cannot be decided on the basis of comparisons, rather it should be on the merit of each case.

It was further submitted that the union has tried to establish its claims on the basis of the settlement dated 02.11.1992 and clause 4.1 of the said settlement was for expeditious disposal of pending cases and expeditious disposal does not mean providing employment non-entitled cases and the case of Sk. Nabi was not pending at the time of the settlement as his claim was admittedly filed on 29.11.1997 and as such, clause 4.1 of the settlement dated 02.11.1992 has no application to the claim in this case and Sk. Nabi is the son of the elder brother of the land oustee, Md. Yusuf Hasan Ali and he is not the dependent of the land owner and Sk. Nabi was earlier nominated for employment by his father Sk. Roshan for acquisition of plot No. 446 having an area of 0.74 acre and the said claim was rejected and the nomination of Sk. Nabi for employment was not made by the land oustee, Md. Yusuf Hasan Ali, but was made by Sk. Mustafa, the son of Md. Yusuf Hasan Ali, who has no legal right to nominate Sk. Nabi and as such, the nomination is in valid and case of giving employment to Shri Raju and the present case of Sk. Nabi are quite different, as Shri Raju was nominated by the land oustee, Laxmanrao Wasekar, who was his grandfather and both the cases are different and cannot be compared and Sk. Nabi was more than 35 years of age, when the application was filed for his employment and on that ground also, he was not entitled for employment and the union has tried to brush aside legal issue raised by the management, saying the issues was not raised before the ALC (C) and such contention cannot be considered and Sk. Nabi is not entitled to any relief.

In support of the contentions, reliance has been placed on the judgement in LPA 412/2002 (M/s. Bharat Coking Coal Limited, Dhanbad Vs. Union of India & others) and 2002 LAB IC-3810 (Maharashtra Industrial Development Corporation Vs. Baban Nathuji Sarode & Another).

9. The first submission made by the management representative is regarding the maintainability of the reference. It has been submitted that the matter does not fall within the purview of industrial dispute, as the dispute has been raised on behalf of a land oustee was not a workman and there was no relationship of employer between the land oustee and the management of WCL and the step taken by the Jt. General Secretary to raise the alleged dispute does not amount to espousal of the cause by the union, in absence of any evidence to show that authorization by way of resolution of the Executive committee has been

obtained in this respect and there is unexplained inordinate delay in raising the dispute.

LPA No. 412/2000, on which reliance has been placed by the management representative, the Hon'ble High Court, Ranchi Bench considered the question as to whether land losers, whose lands were acquired by the Company were "workmen" or not and held that such land losers do not come under the definition of workman. The Hon'ble Court also held that, "Those land owners had also not raised such dispute themselves, rather their cause was being advanced by the trade union. When admittedly they were not workmen within the meaning of the Act probably were not entitled to be the members of such union and there was no industrial dispute within the meaning of section 2(k) of the Act and the dispute raised on behalf of those land owners could not have been called as industrial dispute and such a stale dispute could not have been the subject matter of the reference under section 10 of the Act."

In the decision, 2002 LAB I.C. 3810 (supra), the Hon'ble Bombay High Court have held that, "Delay-Grievance of employee that he was denied legitimate promotion since 1973 onwards at every stage-Agitated in 1989 *i.e.* after 16 years for the first time-Employee, not entitled for any relief on account of delay in filing complaint."

In this case also, admittedly, the land loser, Mohd. Yunus Hasan Ali was not a workman and so also Sk. Nabi is not a workman and not a member of the union. The dispute was not raised by the land loser or by Sk. Nabi himself. So, the dispute cannot be said to be an industrial dispute.

No evidence has been filed to show that the union has espoused the case of Sk. Nabi or the Sk. Nabi had authorized the union to espouse the dispute on his behalf. The Jt. General Secretary, who has raised the dispute, in spite of the challenge made by the Party No. 1 regarding his authority, did not file any authority or document to show that he was authorized by the union to espouse the dispute on behalf of Sk. Nabi. The Jt. General Secretary does not have any authority to espouse the dispute on behalf of a private person or even on behalf of a workman in his individual capacity, unless and until, it is decided by the union by way of a resolution to espouse such dispute and authorized him to take to necessary steps in that regard.

It is also found that there is inordinate delay in raising the dispute. Admittedly, the land of Mohd. Yunus Hasan Ali was acquired in the year 1978 and the dispute was raised on 14.02.2002, *i.e.* 22 years after the acquisition of the land, before the Conciliation Officer. The delay has not been explained. On the ground of inordinate delay also, the reference should not have been made.

However, I think it proper to mention here, the two decisions of the Hon'ble Apex Court in this regard, as reported in (2000) 1 SCC-371 (National Engineering Industries Ltd. Vs. State of Rajasthan and others) and (1984)

4 SCC-392 (Workmen, Hindustan Liver Ltd. Vs. Hindustan Liver Ltd.)

In the decision reported in (1984) 4 SCC-392 (Supra), the Hon'ble Apex court have held that, "Labour and Services—Industrial Disputes Act, 1947—Sections 10 and 2(k)—Once a reference is validly made by appropriate Government, Tribunal must adjudicate the dispute on merits—Practice of raising preliminary objections to the reference disapproved.

In the decision reported in (2000) 1 SCC-371 (Supra), the Hon'ble Apex Court have held that, "Condition precedent for making—Existence or apprehension of an industrial dispute, held is a condition precedent for making a reference—High Court can entertain a writ petition impugning a reference on the ground of non-existence of an actual or apprehended industrial dispute. But Industrial Tribunal cannot examine the validity of a reference.

In view of the principles enunciated by the hon'ble Apex Court in the decisions as mentioned above, the reference is to be decided on merit.

10. Much stress has been given by the union representative to the settlement dated 02.11.1992. Admittedly, in the settlement dated 01.11.1992, the management of WCL had agreed to finalize the pending cases for giving employment to the nominees of land oustee of Pench, Kanhan, Nagpur, Chandrapur areas etc. expeditiously keeping in view the norms/practices prevalent in the respective areas at the time of acquisition of land by WCL.

It is clear from the terms of the said settlement that the agreement was in respect of the pending case of giving employment to the nominees of land oustee and not in respect of future cases. It is also clear from the materials on record that the case of employment of Sheikh Nabi was not pending on 02.11.1992 and for the first time the application for, his employment was filed on 29.11.1997. So, the settlement dated 02.11.1992 has nothing to do with the case of employment of Sk. Nabi.

11. On perusal of the pleadings of the parties and the materials on record it is found that the union has come up with clean hands and has made untrue pleadings in the statement of claim. It is not disputed that the land oustee, Mohd. Yunus Hasan Ali died on 20.08.1994. In the statement of claim, it is pleaded that one Raju, the nominee of land oustee of Laxmanrao Wasekar was given employment in 1996, 16 years after the acquisition of the land of Laxman Wasekar. In paragraph 13 of the statement of claim, it has been mentioned that, "On having to come to know that the nominee of Shri Laxmanrao Wasekar *i.e.* Shri Raju S/o Vijay was offered employment and working in Hindustan Lalpeth colliery of Chandrapur area, the another land oustee Shri Mohd. Yusuf Hasan Ali had also requested the management of WCL to give employment to his nominee Shri Sk. Nabi Sk. Roshan which was not entertained by the

management of the WCL on the flimsy grounds on belated claim.

When the land oustee, Mohd. Yusuf Hasan Ali died in 1994 and employment was given to Raju in 1996, then, how it is possible for a dead man to nominate Sk. Nabi after knowing about the employment of Raju in 1996.

In the entire statement of claim, at different places, including paragraph 20, where the date of making of the claim of employment of Sk. Nabi has been mentioned as 29.11.1997, it has been mentioned that Sk. Nabi was the nominee of Mohd. Yusuf Hasan Ali and the nomination was made by Mohd. Yusuf Hasan Ali, which is not at all true. It is clear from the materials on record that the land oustee, Mohd. Yusuf Hasan Ali had never nominated Sk. Nabi for employment. It is also clear from the materials on record that on 29.11.1997, for the first time an application was filed by Sheikh Mustafa, one of the sons of land oustee, to give employment to Sk. Nabi. So, the pleadings made by the union that Sk. Nabi was nominated by Mohd. Yusuf Hasan Ali is quite wrong and without any basis.

12. It is clear from the own pleadings of the union in the statement of claim and rejoinder that the maximum age of a nominee of land oustee for employment in WCL was 35 years, when the application was filed for employment of Sk. Nabi. It is also crystal clear from the materials on record that the nomination for employment of the nominee is to be made by the land oustee. It is also clear from Annexure-D filed alongwith the affidavit of the witness for the management that Government of India, Ministry of Energy, Department of Coal had formulated the guide lines to give employment to the nominees of the land oustees through its consultative committee of members of parliament in the meeting held on 13.10.1983 and directed that all group "C" and group "D" jobs in the coal projects will be filled up to the extent possible by recruitment by selection, through the local employment exchange, from the families of the land oustee whose land are acquired for the purpose and "Family" will mean the person concerned whose land is being acquired, his wife, sons, daughters or legal heir.

13. So far giving of employment to Sk. Nabi is concerned, it is found that he was never nominated by the land oustee, Mohd. Yusuf Hasan Ali, but he was nominated by Sk. Mustafa, the son of the land oustee, who is not competent to make the nomination. Sk. Nabi was not a family member or legal heir as per the definition of "Family" provided by the government of India in Annexure-D as mentioned above. Sk. Nabi was also more than 35 years of age on 29.11.1997, when for the first time application was filed for employment (as found from the copy of the college leaving certificate of Sk. Nabi on record). So, Sk. Nabi was/is not entitled for employment as a nominee of land oustee. Mohd. Yusuf Hasan Ali and the Party No. 1 did not commit any wrong in not giving employment to Sk. Nabi. Hence, it is ordered:—

ORDER

The action of the management of M/s. Western Coalfields Limited through the Chief General Manager, Chandrapur Area, P.O. & Distt. Chandrapur in rejecting the demand of employment of Shri Sheikh Nabi S/o. Sheikh Roshan being nominee of Land Oustee namely Late Mohammed Yusuf, whose land admeasuring 2.53 hectares was acquired by M/s. WCL on 20.03.1978, is legal and justified. The workman is not entitled to any relief.

J.P. CHAND, Presiding Officer

नई दिल्ली, 21 फरवरी, 2014

कांआ 882.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल परागना ग्रामीन बैंक प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण धनबाद के पंचाट (संदर्भ संख्या 45/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/02/2014 को प्राप्त हुआ था।

[सं एल-12011/46/2003-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 21st February, 2014

S.O. 882.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 45/2004 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of Santhal Paragana Gramin Bank and their workmen, received by the Central Government on 21/02/2014.

[No. L-12011/46/2003-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of reference U/S 10(1) (d) (2A) of I.D. Act. 1947

Ref. No. 45 of 2004

Employer in relation to the management of Santhal Paragana Gramin Bank, Dumka

AND

Their workmen

PRESENT: Sri R.K. Saran, Presiding Officer

Appearances:

For the employers:— None

For the Workman:— Sri U.N. Lall, Advocate

State : Jharkhand

Industry : Banking

Dated 2/1/2014

AWARD

By order No. L-12011/46/2003/IR (B-1) dated 04.06.2004 the Central Government in the Ministry of Labour has, in exercise of powers conferred by clause (d) of sub-section (1) and sub section 2(A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Santhal Paragana Gramin Bank in issuing the Circular No. 45 of 2002-2003 dated 09.11.2002 and circular No. 47 of 2002-2003 of 12.11.2002 prohibiting the officers of Santhal Paragana Gramin Bank Adhikari Union to take part in Union activity or pressing their charter of demand by agitational means in legal and justified? If not, to what relief santhal paragana Gramin Bank Adhikari Union is entitled to?”

2. This Case is received from the Ministry on 16.06.2004. During the pendency of the case, Ld counsel of concerned Union files a petition for withdrawing this reference. It is felt that the dispute between parties is resolved. Hence “No dispute” award is passed. communicate.

R.K. SARAN, Presiding Officer

नई दिल्ली, 21 फरवरी, 2014

कांआ 883.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं 1 धनबाद के पंचाट (संदर्भ संख्या 47/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/02/2014 को प्राप्त हुआ था।

[सं एल-20012/294/1999-आई आर (सी-1)]

एम के सिंह, अनुभाग अधिकारी

New Delhi, the 21st February, 2014

S.O. 883.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 47/2000 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL, and their workmen, received by the Central Government on 21/02/2014.

[No. L-20012/294/1999-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, DHANBAD****Reference: No. 47/2000**In the matter of reference U/S 10(1) (d) (2A) of I.D. Act,
1947.Employer in relation to the management of Kusunda.
Area M/s. BCCL**AND**

Their workmen

PRESENT:

Sri R.K. Saran, Presiding Officer

APPEARANCES:

For the employers: Sri D.K. Verma, Advocate

For the Workman: None

State : Jharkhand Industry : Coal
Dated 25/1/2014**AWARD**

By order No. L-20012/294/99/IR(C-I) dated 20.01.2000, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the demand of Rashtriya Colliery Mazdoor Sangh that Sri Dashrath Yadav should be placed in Excavation Group-D *w.e.f.* 9.2.83 is proper and justified? If so, to what relief the workman is entitled and from which date?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R.K. SARAN, Presiding Officer

नई दिल्ली, 21 फरवरी, 2014

का०आ० 884.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 1992 का 19) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/02/2014 को प्राप्त हुआ था।

[सं० एल-20012/202/1989-आई आर (सी-I)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 21st February, 2014

S.O. 884.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 19/1992) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL, and their workmen, received by the Central Government on 21/02/2014.

[No. L-20012/202/1989-IR (C-I)]

M.K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.1, DHANBAD****Reference: No. 19/1992**In the matter of reference U/S 10 (1) (d) (2A)
of I.D. Act, 1947.**Parties :** Employer in relation to the management of
Pootki Blihari Colliery M/S BCCL.**AND**

Their workmen.

PRESENT :

Shri R.K. Saran, Presiding Officer.

Appearances:

For the Employers:- Sri D.K. Verma, Advocate

For the workman. :- Sri S.N. Goswami, Advocate

State : Jharkhand Industry : Coal
Dated 16/1/2014**AWARD**

By order No. L-20012/202/89/IR (Coal-I), dated Jan. 92, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the demand that the 469 contractor workers shown in the annexure be treated as employees and regularized in the service of M/S Bharat Coking Coal Ltd. is justified? If so, to what relief are the concerned persons entitled to?”

ANNEXURE

Sl. Name	Sl. Name
1 2	1 2
1. Ashok Polai	2. Jogendra Dassa
3. Dhoba Dassa	4. Murli Dassa
5. Rama Dassa	6. Sanynsi Dassa

1	2	1	2	1	2	1	2
7. Ovimanyu Dassa		8. Bhaskar Dassa		90. Bhagya Nahaka.		91. Amullya Sahis	
9. Kishori Dassa		10. Bani Pairada		92. Amrit Bhian		93. Dasharat Bhian	
11. Udyia Pairada		12. Muruli Pairada		94. Madan Roy		95. Nakul Dassa	
13. Bipsa Pairida		14. Dandapani Pairida		96. Ram Bilasti Yadav		97. Arjoon Dhari	
15. Baim Pairada		16. Kali Pairida		98. Shanker Dhari		99. Jagarnath Dakua	
17. Bharat Nahaka		18. Kashi Pairada		100. Jyoti Krishana swain		101. Bidya Dhar Nahaka	
19. Bimla Pairida		20. kishori Dassa		102. Duniya Gora		103. Upendra Dassa.	
21. Ghanshyam Gora		22. Biprn Pairida II		104. Dhobi Dassa		105. Murli Dassa.	
23. Nakula Nahaka		24. Raghu Nahaka		106. Kanoo Dassa		107. Saurashi Dassa	
25. Pnaddnai Gora		26. Prabhakar Basmati		108. Dauda Dassa		109. Biond Paira	
27. Nakula Dassa		28. Channa Dassa		110. Ragoo Nahaka		111. Prabhaker Bisai	
29. Bithishai Dassa		30. Bira Dassa		112. Rajmon Giri		113. Sobha Ciri	
31. Sukroo Dass		32. Rai Balya Dassa		114. Mahadev Mallah		115. Rama Vtaar Mallak	
33. Budhiya Sahu		34. Kartik Dassa		116. Dindayal Furha		117. Fulan Singh	
35. Bhaskar Pradhan		36. Hira Paira		118. Badan Manjhi		119. Kara Manjhi	
37. Banamali Paira		38. Banshi Sahu		120. Sagar Manjhi		121. Jahur Manjhi	
39. Ulla Dassa		40. Bijay Dassa		122. Bindu Manjhi		123. Bundhan Manjhi	
41. Jaya Dassa		42. Orikhit Dassa		124. Narhari Manjhi			
43. Bhim Dassa		44. Mangloo Dassa		125. Tribhuwan Prasad		126. Narayan Prasad.	
45. Lakhan Polai		46. Chaitan Polai		127. Mahabir Prasad		128. Surendra Tiwary.	
47. Hira Polai		48. Keshop Bhian		129. Kesia Tiwary		130. Parshuram Tiwary	
49. Natwar Sahu		50. Makra Dassa		131. Ram Shanker Mishra		132. Shiv Ram Prasad	
51. Narshinsh Gora.		52. Bhagirath Gora		133. Dinesh Singh		134. Uma Shanker Singh	
53. Gangandhar Pradhan.		54. Pano Behra		135. Kapil Ram.		136. Bhim Devashi	
55. Bijay Behra		56. Kashi Behra		137. Bishaw Nath Singh		138. Bir Bahadur	
57. Ulle Gore.				139. Makhan Ram		140. Mohan Prasad	
58. Saila Nahaka		59. Basu Nahaka		141. Mushlim Mian		142. Sanatan.	
60. Jogindra Nahaka		61. Jaggaranath Dora		143. Rama Nand		144. Sahdeo.	
62. Sada Nahaka		63. Sahdeo Nahaka		145. Marma Orang		146. Kailash Pasi.	
64. Jogindra Nahaka		65. Bhima Nahaka		147. Shama Rabidas		148. Rajdeo Bhian	
66. Hira Nahaka		67. Shama Nahaka.		149. Bankoo Bhian		150. Paran Rajak	
68. Satrugghan Nahaka		69. Parsu Nahaka		151. Sujan Singh		152. Sahdeo Turi	
70. Mittick Nahaka		71. Panchu Nahaka		153. Bhula Saw		154. Anusha Saw	
72. Jay Nahaka		73. Daya Dassa		155. Shiv Charan Manjhi		156. Pundeshwar	
74. Jyoti Kriahna		75. Mittick Nahaka II		157. Muni Lal Prasad		158. Rajendar Turi	
76. Badia Nahaka II		77. Sudashan Nahak II		159. Parsu Ram		160. Rameshwar	
78. Durja Dassa		79. Ucha Dasa		161. Bhim Layak		162. Din Dayal	
80. Trinath Dassa		81. Annarnth Dassa		163. Angad Dassa		164. Maheshar Dassa	
82. Bhasker Dassa		83. Narayan Gora		165. Gadai Bisai		166. Raghoos Polai	
84. Narihari Nahaka		85. Krishna Nahaka		167. Sardhar Raiwar		168. Jogi Nahaka -I	
86. Sudra Nahaka		87. Narhari Dassa		169. Panch Nahka		170. Ulla Gora II	
88. Panchu Dassa		89. Nira Nahaka		171. Panchu Nahaka-II		172. Rabin Mudi	

1	2	1	2	1	2	1	2
173. Pandeshwar Roy		174. Dhaneshwar Roy		257. Bipra Dassa			
175. Seo Charan Mudi		176. Muni Lal Turi		258. Budhiya Dassa		259. Bimble Parida	
177. Purna Polai		178. Panchu Pradhan		260. Bhimo Dassa II		261. Ganpati Nahaka. II	
179. Nand Dassa		180. Bindyadhar		262. Murli Parida		263. Krishna Nahaka	
181. Hari Dassa		182. Dina Dassa		264. Jogi Dassa		265. Hino Parida	
183. Ramesh Nahaka		184. Sukur Swain		266. Hino Nahaka		267. Hino Nahaka	
185. Bhagwan Dassa		186. Rama Bhuian		268. Chanu Dassa		269. Hanoo Dassa	
187. Kartick Dassa		188. Baneshi Sahu		270. Suraj Dassa		271. Chil Nahaka II	
189. Hino Polai		190. Bharat Dassa.		272. Sanya Dassa		273. Raju Dassa	
191. Nakheshwar Dassa		192. Kentra Dassa		274. Prafulya Dassa		275. Aloke Pal	
193. Dandpani Jena		194. Dhoba Bhuian		276. Panchanand Prasad		277. Anant Lala	
195. Uday Jena		196. Bhobini Jena		278. Niraj Kumar		279. Ludak Saw	
197. Bhobini Bshara		198. Gada Dakua		280. Ram Ujagir Bharatia		281. Subhash Chandra Bid	
199. Madan Dakua		200. Sahdeo Jena		282. Dewesh Kumar Sinha		283.	
201. Raghu Polai		202. Mangloo Jena		284.		285. Dalbir Singh	
203. Bhojram Jena		204. Babu Jena		286. Awadhes Ram		287. Arun Kumar	
205. Hari Jena		206. Keshi Swain		288. Arjun Kumar Mehta		289. Umesh Prasad.	
207. Abimanyoo Swain		208. Ganta Swain				Swarnkar	
209. Dharma Dakua		210. Jogi Jena		290. Arun Kumar Singh		291. Pradip Kumar	
211. Ranko Swain		212. Goura Bhuian		292. Krishna Bhallab Prasad		293. Bijay Kumar Agarwal	
213. Ganpati Bhian		214. Brudaban Bhuian		294. Sunil Kumar Agarwal		295. Arun Kumar Mehta	
215. Kangresh Swain		216. Jagli Swain		296. Ayodhaya Prasad Mehta		297. Chetlal Prasad Yadav	
217. Kondho Swain		218. Naran Dassa		298. Koleshwar Prasad		299. Bisheshwar Prasad	
219. Sadhu Dassa		220. Karuna Dassa		Mehta		Mehta	
221. Ganpati Dassa		222. Shaiba Dassa		300. Bangali Prasad Mehta		301. Jagan Rabi Das	
223. Benu Swain		224. Kandha Swain		302. Chouwa Mehta		303. Gandhi Nayak	
225. Bharat bisai		226. Karuna Bhina		304. Dilip Kr. Barhtiya		305. Sadanand Pradhan	
227. Hari Bhuian		228. Naran Jena		306. Narsingh Sahu		307. Bijoy Kr. Pradhan	
229. Makra Jena		230. Bali Bishai		308. Arjun Barhatiya		309. Bhubhani Barhatiya	
231. Nath Jena		232. Hadu Bhuian		310. Subhash Ch. Paridha		311. Lal Bahadur Bharti	
233. Padma Jena		234. Krishna Jena		312. Arjun Mehata		313. Rajeshwar Pd. Singh	
235. Jogita Dassa		236. Kashi Dassa		314. Prem Chand Bharti		315. Ram Suchit Bharti	
237. Kenturi Dassa		238. Kirtan Mandal		316. Ramesh Bhuiya		317. Gantad Gour	
239. Mttick Dassa		240. Nand Dassa		318. Dandpani Gour		319. Sudarshan Jaina	
241. Rameshwar Nahaka		242. Prabhaker Bisai		320. Rawan Das		321. Bijoy Gour	
243. Saya Bisai		244. Uday Dassa		322. Abhiram Bhuiya		323. Hazari Bhuiya	
245. Devraj Behra		246. Simanchal Behara		324. Pana Chand Gour		325. Abdhesh Ram	
247. Ganpati Pradhan		248. Bancha Dassa		326. Udy Badhatiya		327. Khanu Gour	
249. Dhobi Dassa		250. Daya Parida		328. Deo Raj Badhatiya		329. Dand Pani Bhuiya	
251. Banmali Parida		252. Bhuian Dassa		330. Bairagi Bhiyan		331. Abhimanu Bisai	
253. Bishnu Nahaka		254. Bhimo Malkatta		332. Nawin Bhuiya		333. Ramesh Chandra	
255. Bijay Parida.		256. Annath Nahaka				Bhuiya	
				334. Basant Kumar Bhuiya		335. Basant Lal Bhuiyan	

1	2	1	2	1	2	1	2
336. Ranjan Kumar Bhuiyan	337. Sudhakar Bhuiyan	420. Pannay Prakash Pandey	421. Birbal Prasad Mehta				
338. Shree Harsha Jaina	339. Ashok Kumar Bhuiyan	422. Teklal Prasad Mehta	423. Ashok Yadav				
340. Banmali Bhuiyan	341. Lakhan Bhuiyan	424. Dhekha Lal Prasad Meheta	425. Wakil Prasad Meheta				
342. Basant Kumar Jaina	343. Sadanand Swai	426. Bir Pratap Singh	427. Abinay Prasad				
344. Radha Mohan Swai	345. Kabiraj Polai	428. Kengresh Swani	429. Bhajan Naike				
346. Upendra Polai	347. Upendra Poliai	430. Sant Bisai	431. Ghalatan Nahak				
348. Jai Ram Polai	349. Rajendra Maharana	432. Jhagru Nahak	433. Jhagga Nahak				
350. Pitamber Bhuiyan	351. Jogi Bhuiyan	434. Nindu Nahak	435. Bishwa Nath Nahak				
352. Bijoy Gour	353. Bhagwan Dakua	436. Jhingur Nahak	437. Jhandu Nahak				
354. Jagbandhu Bhuiyan	355. San Jaina	438. Tileswar Nahak	439. Ghulaban Nahak				
356. Tuna Bhuiyan	357. Bhagwan Jaina	440. Jaichand Nahak	441. Jain Nahak				
358. Panchu Jaina	359. Bouri Sahu	442. Jainath Nahak	443. Keshwar Nahak				
360. Nil Kanth Bhuiyan	361. Charan Bhuiyan	444. Nageshwar Nahak	445. Gopal Nahak				
362. Patit Jaina	363. Kowar Gour	446. Baleshwar Nahak	447. Ganga Nahak				
364. Laxmi Narayan Badhetiya	365. Raju Badhatiya	448. Jagarnath Nahak	449. Keso Nahak				
366. Bhagwan Swal	367. Ujjal Badhatiya	450. Kabi Nahak	451. Raju Nahak				
368. Ram Chandra Karan	369. Raju Pradhan	452. Ranjan Nahak	453. Baid Nahak				
370. Baraj Sahu	371. Bijoy Bhuiya	454. Sew Nahak	455. Shyam Nahak				
372. Haru Bhuiyan	373. Uma Bhuiyan		456. Ram Nahak				
374. Dak Bishai	375. Krisbna Chand Bhwai	457. Bhajan Nahak	458. Biju Nahak				
376. Anand Malik	377. Rabindra Kumar Polai	459. Raghani Nahak	460. Bijendra Nahak				
378. Arsul Mullick	379. Hari Mallick	461. Raghu Nahak	462. Lakhan Nahak				
380. Bant Malliok	381. Karun Kar Polai	463. Panchanand Barhatia	464. Banshi Barhatia				
382. Saheb Swai	383. Abhimanu Swai	465. Govind Barhatia	466. Lok Nath Barhatia				
384. Narayan Jaina	385. Sudam Charan Swai	467. Menglu Mallik	468. Bharaia Barhatia				
386. Niranjan Bhuiyan	387. Dhoba Ram Swai	469. Anchal Pradhan					
388. Ramesh Swai	389. Danda Swai						
390. Samt Jaina	391. Rabindra Badhatiya						
392. Sadawi Dingal	393. Nabraton Polai						
394. Ramesh Polai	395. Krishna Maharana						
396. Jai Chand Jaina	397. Baburaj Bhuiyan						
398. Binod Prasad Singh	399. Ashok Nahak						
400. Chaitaina Nahak	401. Krishna Nahak						
402. Boldeo Nahak	403. Yadu Nahak						
404. Harsu Nahak	405. Pan Nahak						
406. Sonu Nahak	407. Santu Nahak						
408. Alok Nahak	409. Panchu Nahak						
410. Binai Nahak	411. Bimal Nahak						
412. Bishsawar Nahak	413. Tilok Nahak						
414. Ramu Nahak	415. Ramani Nahak						
416. Cenda Nahak	417. Nanhak Nahak						
418. Nandu Nahak	419. Tilochan Nahak						

2. The case is received from the Ministry of Labour on 03.02.1992. After receipt of the reference, both parties are notice, the workman files their written statement on 08.05.1992. And the management files their written statement-cum-rejoinder on 31.07.1992. Workmen submitted one document W-1 *i.e.* failure report of ALC alongwith Tripartite agreement and examined three witnesses whereas two witnesses have been examined on behalf of the management.

3. The claim of the workmen, that they were working in BCCL under a contractor. But subsequently without regularizing them, the management terminated their serves.

4. From the workman examined in the case, one WW-3 said that he was given I.D. Card. But he could not produce the same nor explained under what circumstances he failed to produce the said I.D. Card Another workman who has been examined as WW-1 said that he was not given any Identity Card.

5. Lakhan Polai who raised dispute on behalf of the workmen, has not stated everywhere that he issued I.D. Card to the workmen. He also failed to produce any document of contract that he was ordered to engage workmen in BCCL.

6. As per evidence of the workmen, all stated that they are a workmen of Lakhan Polai, and Lakhan Polai is my Contractor. This proves that they were only contractor workmen.

7. Moreover in the W-1 *i.e.* Tripartite agreement, name of 27 persons appears and they have been given employment. The rest workmen names does not find place there nor they proves continuous service under the management.

8. When there is no iota of evidence that all the 469 workmen were the contract workers of BCCL. This Tribunal is not in a position to pass order to regularize the workmen.

9. Considering the facts and circumstances of this case. I hold that the demand of union to regularized the 469 contractor workers shown in the annexure be treated the service of M/S Bharat Coking Coal Ltd. is not justified. Hence they were are not entitled get any relief.

This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 21 फरवरी, 2014

का०आ० 885.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 15 of 1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.02.2014 को प्राप्त हुआ था।

[सं० एल-20012/221/1994-आई आर (सी-I)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 21st February, 2014

S.O. 885.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 15/1996) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s BCCL, and their workmen, received by the Central Government on 21.02.2014

[No. L-20012/221/1994-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1), DHANBAD.

IN THE MATTER OF REFERENCE U/S 10(1) (D) (2A) OF
I.D. ACT. 1947

Ref. No. 15 of 1996

Employers in relation to the management of
Bhatdih Colliery of M/s B.C.C.L.

AND

Their workmen

Present : Sri Ranjan Kumar Saran, Presiding Officer

Appearances:

For the Employers :— Sri D. K. Verma, Advocate

For the workman : — Sri D. Mukherjee, Rep.

State: —Jharkhand Industry: — Coal

Dated 27.1.2014

AWARD

By order No. L-20012/221/1994-IR-(C I), dated 09.02.1996, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Dispute Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the demand raised after 10 years for dependent employment by the Union in respect of Late Angu Roy, Ex-Loader, who died on 28.7.82 is justified? if so to what relief is the dependent son Mathur Roy is entitled to?"

2. The case is received from the Ministry of Labour on 20.02.1996. After notice, both parties appeared. The Sponsoring Union files their written statement on 02.01.1997. Thereafter the management files their written statement on 20.04.2000, rejoinder and filed their respective document from both side, One witness each examined.

3. The short point involved in the case is, demand of dependant employment after ten years by the union in respect of late Agnu Roy is justified or not.

4. Agnu Roy a minor loader died on 28.07.1982. It is stated by the dependent son of Agnu in his evidence that after the death of his father he applied for job on 30.03.83. But it is denied by the management.

5. It is not know whether the application of dependent son filed by Regd. Post with AD or by hand. It is further curious that, from 1983, the WW-1 waited for long 10 years and during that period another persons worked as father

of WW-1, and he was dismissed on the ground of impersonating himself in the name of Agnu Roy.

6. The matter appears to be fishy. Moreover dependant workman may not be in harness long after ten years. The years after question on harness is not believed. The claim of employment ten years after the death of the workman is not tenable.

7. Considering the facts and circumstance of this case, I hold that the demand of the union raised after 10 years for dependent employment in respect of Late Agnu Roy, Ex-Loader, who died on 28.07.82 is not justified. Hence the dependent son Mathur Roy is not entitled to get any relief. The reference is answered in negative.

This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 21 फरवरी, 2014

का०आ० 886.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकारन बी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 25 का 2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.02.2014 को प्राप्त हुआ था।

[सं० एल-20012/100/2010-आईआर (सीएम-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 21st February, 2014

S.O. 886.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 25/2011) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s BCCL, and their workmen, received by the Central Government on 21.02.2014.

[No. L-20012/100/2010-IR(CM-I)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL

NO. 1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A)
of I.D. Act. 1947.

Reference No. 25 of 2011

Employer in relation to the management of Tetulmari
Colliery of M/S BCCL

AND

Their workman

Present:— Sri R.K. Saran, Presiding Officer.

Appearances:

For the Employers:	Sri D.K. Verma, Advocate.
For the Workman :	Sri K.N. Singh, Rep.
State:—Jharkhand.	Industry:—Coal.
	Dated 13/1/2013.

AWARD

By order No.-L.20012/100/2010 IR-(CM-I). dated. 15.04.2011 the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Tetulmari Colliery of M/S BCCL, in dismissing Shri Feroz Mia M/Loader from the service of the company from 28.8.2004 is fair and justified? To what relief the Concerned workman is entitled?"

2. The case is received from the Ministry of Labour on 10.05.2011 After receipt of reference, both parties are noticed, the workman files their written statement on 20.05.2011. And the management files their written statement-cum rejoinder on 14.03.2013.

3. Before receipt of the documents of the parties, at the time of preliminary hearing of the case, it is seen that, this is a case of dismissal. Learned counsel of the management submitted that the workman has been dismissed as he remained absent from duty continuously.

4. The counsel for the workman submitted that the workman is young and be taken to duty without any back wages.

5. After hearing the parties, it is felt proper to direct the management to take the workman in job as a fresh entrant.

6. Considering the facts and circumstances of this case, I hold that he be taken into job as a fresh employee. Therefore the question of back wages does not arise at all.

This is my award

R.K. SARAN, Presiding Officer

नई दिल्ली, 21 फरवरी, 2014

का०आ० 887.—आद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधतंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 28 का 2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/02/2014 को प्राप्त हुआ था।

[सं० एल-20012/98/2008-आई आर (सी-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 21st February, 2014

S.O. 887.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 28/2009) of the Cent.Govt.Indus. Tribunal-cum-Labour Court No 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. ECL, and their workmen, received by the Central Government on 21/02/2014.

[No-L-20012/98/2008-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1,

DHANBAD

In the matter of reference u/s 10(1) (d) (2A)
of I.D. Act, 1947

Ref. No. 28 of 2009

Employer in relation to the management of Mugma Area
M/s. ECL.

AND

Their workmen.

Present :

Sri R.K. Saran, Presiding Officer

Appearances:

For the employers: Sri D.K. Verma, Advocate

For the Workman : Sri U.P. Sinha, Advocate

State : Jharkhand Industry : Coal

Dated 27/1/2014

AWARD

By order No. L-20012/98/2008/IR (C-I) dated 23.04.2009 the Central Government in the Ministry of Labour has, in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the demand of the Bihar Pradesh Colliery Mazdoor Congress from the management of Hariajam Colliery under Mugma Area of M/s. ECL. for retrenchment benefits under the provision of the I.D. Act. 1947 to Sri Mansha Manjhi, W/Loader is legal and justified? To what relief is the workman concerned entitled?"

2. This Case is received from the Ministry on 06.05.2009. During the pendency of the case I.D. counsel of the

workman files a petition and praying to pass No Dispute award to this reference. It is felt that the dispute between parties is resolved. Hence "No dispute" award is passed, communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 फरवरी, 2014

का०आ० 888.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 53 का 2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/02/2014 को प्राप्त हुआ था।

[सं० एल-20012/65/2009-आई आर (सी एम-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 21st February, 2014

S.O. 888.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 53/2009) of the Cent.Govt.Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL, and their workmen, received by the Central Government on 21/02/2014.

[No. L-20012/65/2009-IR(CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUS- TRIAL TRIBUNAL (NO. 1), DHANBAD

In the mattter of a reference u/s 10(1) (D) (2A)
of I.D. Act, 1947.

Ref. No. 53 of 2009

Employers in relation to the management of Sijua Area of
M/s. BCCL

AND

Their workmen

PRESENT :

Shri Ranjan Kumar Saran, Presiding Officer

Appearances:

For the Employers:— Sri D.K. Verma, Advocate
For the workman :— Sri M.N. Rewani, Advocate
State : Jharkhand Industry : Coal
Dated 25/1/2014

AWARD

By Order No. L-20012/65/2009-IR (CM-I), dt. 29/09/2009, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"(i) Whether the demand of the Rashtriya Mazdoor Union for reinstatement of Shri O.P. Sharma, Weigh Bridge Clerk in service by the management of Sijua Area of M/s. BCCL is justified & legal? (ii) To what relief is the workman concerned entitled?"

2. The case is received from the Ministry of Labour on 14.10.2009. After receipt of reference, both parties are noticed, the Sponsoring Union/workman files their written statement on 08.12.2009. The management files their written statement-cum-rejoinder on 22.09.2010. And thereafter the Sponsoring Union files their rejoinder & document and examined two witnesses.

3. The claim of the management is that workman O.P. Sharma alongwith others conspired and charge sheeted by the CBI and found guilty by CBI Court. On appeal, the order of conviction was set-a-side and the matter remitted to Trial Court for fresh decision, within two months. But before the Trial Court the workmen accused submitted that they are satisfied with the initial Trial Court judgement for which the case was closed.

4. But the fact that the workman will be satisfied with the set-a-side judgment, and the trial closed the case and will not go against the workman. Moreover no document filed before this Tribunal as to what judgment was passed against the workman after remand of CBI case by trial magistrate. Therefore conviction judgment of the workman has been set aside and that is the position before this Tribunal.

5. It is also found among other workman some have been reinstated, but the present workman was not reinstated though he gave representation and approached the Hon'ble High Court. Strangely enough the management took a new plea of identification before the High Court though the plea of identification was taken at a belated stage. But in the reference, the question of identification probably not raised as otherwise, question of identification must have been referred in the term of reference. The workman has filed a series of documents such as Aadhar Card, APL Card etc. to prove his identity. MW-1 has virtually not stated anything regarding identity. Rather said during the period, the workmen were paid in salary sheet.

6. Moreover series of letter right from 1974, has been issued to workman Sri O.P. Sharma, which he has filed before this Tribunal. If Mr. O.P. Sharma, says he was receiving

salary from the management during 1971 to 1972, the management could disprove his claim showing payment register that the present O.P. Sharma was not in the management's pay roll, and that has not been done.

7. O.P. Sharma filed PAN card, Photo I.D. Card proving his identify, therefore there is not doubt regarding his identify.

8. Considering the facts and circumstances of his case, I hold that the demand of the Union for reinstatement of Shri O.P. Sharma, Weigh Bridge Clerk in service by the management of Sijua Area of M/s. BCCL is justified & legal. Hence the workman be reinstated in the job without any back wages within one month from the date of publication of the award in the gazette.

This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 21 फरवरी, 2014

का०आ० 889.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 12 का 2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/02/2014 को प्राप्त हुआ था।

[सं० एल-20012/64/2010-आईआर (सीएम-1)]

एम०के० सिंह, अनुभाग अधिकारी

New Delhi, the 21st February, 2014

S.O. 889.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 12/2011) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL, and their workmen, received by the Central Government on 21/02/2014.

[No. L-20012/64/2010-IR(CM-I)]

M.K. SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 1), DHANBAD.**

In the matter of a reference u/s 10(1) (d) (2A)
of I.D. Act, 1947

Ref. No. 12 of 2011

Employers in relation to the management of K.B. 5/6 Pits
Colliery, P.B. Area M/s. BCCL

AND

Their workmen.

Present:—

Sri Ranjan Kumar Saran, Presiding Officer

Appearances:

For the Employers:— Sri S. N. Ghosh, Advocate

For the Workman.:— Sri R. S. Tiwari, Rep.

State : Jharkhand Industry : Coal

Dated 13/01/2014

AWARD

By Order No. L-20012/64/2010-IR (CM-I), dt. 16/03/2011, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"(i) Whether the action of the management of K.B. 5/6 Pits Colliery of M/s. BCCL in dismissing Sri Motilal Mahato M/Loader from the services of the company *vide* order dated 09.05.2006 is fair and justified? (ii) To what relief the concerned workman is entitled to?"

2. The case is received from the Ministry of Labour on 08.04.2011. After receipt of reference, both parties are noticed the workman files their written statement on 20.01.2012. And the management files their written statement-cum-rejoinder on 26.10.2012. The point involved in the reference is that the workman has been dismissed from his services on ground of absenteeism.

3. During preliminary hearing it is revealed that the case is dismissal of workman for long absence on duty. It is found that the workman is young. It is also find that he has already been out of service for 7 years. It is felt to give another chance to the workman to serve.

4. Considering the facts and circumstances of this case, I hold that he be taken into job as a fresh employee. Therefore the question of back wages does not arise at all. Communicated.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 फरवरी, 2014

का०आ० 890.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 40 का 1992) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/02/2014 को प्राप्त हुआ था।

[सं० एल-20025/14/1992-आईआर (सी-I)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 21st February, 2014

S.O. 890.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 40/1992) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL, and their workmen, received by the Central Government on 21.02.2014.

[No. L-20025/14/1992-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

Reference : No. 40/1992

In the matter of reference U/s. 10 (1) (d) (2A)
of I.D. Act, 1947.

Employer in relation to the management of P.B. Area
of M/s. BCCL

AND

Their workmen.

Present : Sri R. K. SARAN, Presiding Officer.**Appearances:**

For the Employers: Sri S. Behra, Asstt. Manager

For the Workman : None

State: Jharkhand. Industry-Coal

Dated 24/1/2014

AWARD

By order No. L-20025/14/92-IR (Coal-I) dated 19th May, 1992, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Kenduadih Colliery of M/s. BCCL, Pootki Balihari Area in denying employment to Shri Suresh Paswan and Dhuran Paswan, Wagon Loader is justified? If not to what relief are the workmen entitled?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 20 फरवरी, 2014

का०आ० 891.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कनारा बैंक के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बेंगलूर के पंचाट (55/1998) को प्रकाशित करती है जो केन्द्रीय सरकार को 20.02.2014 को प्राप्त हुआ था।

[सं० एल-12012/187/97-आई आर (बी II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 20th February, 2014

S.O. 891.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 55/1998) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen, received by the Central Government on 20.02.2014.

[No. L-12012/187/97-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 1st January, 2014

PRESENT : Shri S. N. NAVALGUND,
Presiding Officer

CR. NO. 55/1998

I Party

Sh. B.G. Padmanabha Rao, The Deputy General Manager,
S/o Sh. B.S. Gundurao, Canara Bank,
Ex-shanbogue, Tagalur Tq. Circle Office,
Billichodu - 577 553 No. 86, M G Road,
Chitradurga District. Bangalore- 560 001.

II Party

Appearances :

I Party : Shri N. S. Narasimha Swamy
Advocate

II Party : Shri T. R. K. Prasad,
Advocate

AWARD

1. The Central Government vide order No. L-12012/187/97-IR(B-II) dated 10.06.1998 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following schedule:

SCHEDULE

"Whether the action of the management of Canara Bank is justified in deleting the name of Sh. B. G. Padmanabha

Rao from the panel of daily wagers w.e.f. 20.11.1995 on the charges of fraudulent act committed by him, is legal and justified? If not, to what relief the workman is entitled?"

2. On receipt of the reference while registering it in CR 55/1998 when notices were issued to both the sides they entered their appearance through their respective advocates and I party filed his claim statement on 19.02.1999 whereas the II party its counter on 09.04.1999. The I Party in his claim statement while contending that he was not given fair and proper opportunity in the Domestic Enquiry, that the Enquiry Officer in his finding held the charges as proved without any evidence/basis and that on such a perverse finding the Disciplinary Authority imposed the punishment of removing his name from the panel of daily wagers and even otherwise the same is harsh and disproportionate prayed to set-aside the said order with direction to the II Party to reinstate him into the original post and to pay backwages, continuity of service and other consequential benefits. *Inter alia*, in the counter statement filed for the II Party it is contended the I Party was empanelled as daily wager for Chitradurga District since 19.12.1984 and was attached to Bilichodu Branch and as he was engaged on a day to day basis either in leave vacancies or whenever the exigencies required additional worker is not in the first instance workman as defined under Section 2(s) of ID Act as such the reference is not maintainable. It is further contended that he was served with a charge sheet dated 15.06.1994 as under:

"You are in the panel of daily wagers of divisional Office, Davangere.

On 07.12.1992 when you were attached to our Bilichodu Branch, a cheque bearing number 0515741 for Rs. 16,000 was debited to the SB Account Number 3331 of one Sri Siddappa. The account holder had denied having drawn the amount. The account holder was not issued with cheque book and he was operating the account by means of loose leaves/ withdrawal order forms only.

The following have now come to light:

- that when the cheque was to be released for payment, you had reminded Sri D.R. Eswar Prasad;
- that you had told the supervisor that the account holder had called on the Branch on 7.12.1992 for collecting a cheque book (when in fact the account holder did not come to the branch);
- that you had signed the cheque book issued register as "Siddappa".

There are, therefore, reasons to believe that you had in connivance with orders allegedly committed the fraudulent withdrawal of Rs. 16,000 from the SB Account of Sri Siddappa on 7.12.1992.

By your above action you have wilfully caused/ attempted to cause loss to the property of the Bank

and/or its customer and thus committed Gross Misconduct.

Your above action being prejudicial to the interest of the Bank, you have also committed Gross Misconduct.

Deputy General Manager"

and was ordered to place disciplinary enquiry by appointing Sh. G Ravindrakumar as Enquiry Officer and Sh. G.M. Krishnamurthy as Presenting Officer and as the Enquiry Officer after holding due enquiry submitted his finding dated 23.08.1995 the charges being proved after affording him an opportunity of hearing the impugned punishment of removing his name from the panel of daily wagers was imposed and on his appeal the Appellate Authority affirmed the order of the Disciplinary Authority as such he is entitle for any of the reliefs sought for.

3. After completion of the pleadings my learned predecessor having regard to certain allegations made in the claim statement touching the propriety of the Domestic Enquiry conducted against him while framing a Preliminary issue as to "Whether the Domestic Enquiry conducted against the I Party by the II Party is fair and proper", after receiving the evidence of the Enquiry Officer in the Domestic Enquiry as MW 1 and exhibiting Charge sheet dated 15.06.1994; Circular dated 03.02.1993; reply of the I party to the charge sheet dated 28.06.1994; Appointment letter of Enquiry Officer dated 18.07.1994; appointment letter of Presenting Officer dated 18.07.1994; Notice of enquiry dated 19.07.1994; letter dated 08.09.1995 addressed by the Disciplinary Authority to the I party forwarding the enquiry report; reply of the I Party dated 06.10.1995; letter dated 26.10.1995 addressed to the I party affording him personal hearing; letter addressed by I party to the Disciplinary Authority dated 11.11.1995; Order of the Disciplinary Authority dated 20.11.1995 as Ex M-1 to Ex M-12 and the evidence of I party as MW 1 by his order dated 09.05.2002 since held the Preliminary Issue in the negative i.e., the Domestic Enquiry was not fair and proper the II Party was being given an opportunity to substantiate the charges against the I Party, the learned advocate appearing for the II Party while examining Sh. M. R. Maiya, Manager of Bilichuru Branch of the II Party, Smt. Nagamani T. G. Clerk said to have been assigned the duties of cash receipt and cash payments for the relevant period at Bilichodu Branch, Sh. D. Krishna Murthy Rao, said to be Clerk at Savings Bank Department at Bilichodu Branch, Sh. DR Eswar Prasad claims to be then working in the capacity of Special Assistant at Bilichodu Branch as MW 2 to MW 5 respectively got exhibited Certified copy of the entry in cheque book register on Pages 41 and 42; alleged signature; certified copy of the aforesaid cheque; certified copy of the specimen signature card; certified copy of extract of the accounts with the bank ledger; relevant entry; certified copy of the letter dated 18.01.1993; extract to show payment

of daily wages as Ex M-13, M-13(a), Ex M-14 to Ex M-16, Ex M-16(a), Ex M-17 and Ex M-18. Inter alia, the I Party filed his affidavit in lieu of his evidence on 22.06.2010 and examined himself on oath as WW 1 and closed his side.

4. With the above pleadings, oral and documentary evidence brought on record by both the sides the arguments of the learned advocates appearing for both the sides on merits being heard the Points that now arises for my consideration are:

Point No. 1: Whether the II Party prove that the I Party taken the cheque book signing as Siddappa in respect of the SB Account No. 3331 and fraudulently withdrew Rs. 16000.00 from the said account on 07.12.1992 and thereby caused loss to the property of the bank and its customer and thus committed gross misconduct?

Point No. 2 : If yes, whether the punishment imposed by the II party removing his name from the panel of daily wager is just and proper?

Point No. 3 : What Order/Award?

5. On appreciation of the charge levelled against the I Party, oral and documentary evidence brought on record by both the sides in the light of the arguments put forward by their learned advocates my finding on Point No. 1 is in the negative, Point No. 2 as does not survive for consideration and Point No. 3 as per final Order/Award for the following

REASONS

6. Point No. 1: At the outset on plain reading of the charge sheet it suggest the II party having drawn an inference that I Party had collected cheque book pertaining to the SB A/c No. 3331 standing in the name of Siddappa signing as Siddappa in the Cheque Issue register and utilizing one of the said cheque for drawing a sum of Rs. 16000.00 on 07.12.1992 since the account holder denied having drawn the said amount and that he was operating his account without collecting the cheque book on withdrawal order forms only as he/I Party had told the Supervisor that the Account holder had called on the Branch on 07.12.1992 for collecting a cheque book and remained Sri Eshwar Prasad when the cheque was not taken for payment because absolutely there is no evidence the signature appearing either in Cheque Issue Register or the cheque leaf used to draw Rs. 16000.00 on 07.12.1992 being actually made by the I Party. MW 2 Sh. M R Maiya the Branch Manager of the Billchodu Branch at the relevant time has simply deposed that on 16.12.1992 he was told a Cheque of Rs. 16000.00 being issued and draw from the account No. 3331 pertaining to Sh. Siddappa on 07.02.1992 and that on that day 16.12.1991 the account holder who visited the Branch to withdraw certain amount and submitted his pass book and the same was returned after

updating the account he told that he has not withdrawn Rs. 16000.00 on 07.12.1992 and he being illiterate did not opt for any cheque book nor he was issued with any cheque and that he was withdrawing the amount with loose withdrawal slips and then on going through the records that it was found cheque book was being issued in his favour and under the first leave an amount of Rs. 16000.00 being withdrawn. Thereby, absolutely there is nothing in his evidence to suggest that the I Party having collected cheque book pertaining to Account Nol. 3331 of Siddappa and utilizing the first leave of that cheque book for withdrawing Rs. 16000.00 on 07.02.1992. Similarly MW 3, Mrs. Nagamani who claims that she was working as Clerk and was assigned with duties of Cash Receipts and Cash Payments simply states that she having made payment against the cheque dated 07.12.1992 copy of which is produced at Ex M-14 against token No. 13 on 07.12.1990 and that she cannot say whether Sh. Siddappa *i.e.*, Account holder submitted the cheque for encashment and thereby in her evidence as well there is nothing to suggest against the I Party. Now coming to the evidence of MW 4 Sh. D Krishna Murthy Rao who claims to have been working at Savings Bank Account Department simply states that on presentation of Ex M-14 across the counter he debited the same cheque at concerned cheque at Ex M-16 and that he cannot say who presented the cheque at the counter and he further states that it was not from out of the staff members who presented the cheque as such in his evidence absolutely there is nothing to suggest against the I Party. Now coming to the last evidence of the II Party MW 5, Sh. D R Eswar Prasad there is nothing to suggest the I Party either having taken the cheque book pertaining to Account No. 3331 or utilizing the first leaf of the same cheque book. Thus absolutely there being no IOTA of evidence direct or indirect suggesting that I Party having collected the cheque book pertaining to Account No. 3331 forging the signature of the account holder Siddappa or utilizing the first leaf of that cheque book for drawing a sum of Rs. 16000 on 07.12.1992, I arrived at conclusion of answering Point No. 1 in the Negative.

7. Point No. 2 and 3: In view of my finding on Point No. 1 the action of the management removing the name of I Party from the panel of daily Wagers *w.e.f.* 20.11.1995 cannot be sustained and he is entitle for restoration of his name in the panel of daily wagers as it was as on 20.11.1995. As far as claim of backwages is concerned having regard to the nature of the engagement of the I Party by the II Party as daily wager and long lapse of time it may not be proper to direct the II Party to pay the full backwages that would have been paid to him from the date of removing his name from the panel of daily wagers till his name is restored in that panel but however he having deprived of rendering service as daily wager *w.e.f.* 20.11.1995 without any fault

on his part, I feel it just and appropriate to direct the II party to pay him by way of compensation equivalent to 10% at the wages payable to the daily wagers *w.e.f.* 20.11.1995 at the rate prescribed by the Government from time to time till his name is restored in the panel of daily wagers and to continue to provide him the work of daily wager. In the result, I pass the following.

ORDER

The reference is allowed holding that the action of the management of Canara Bank is not justified in delating the name of Sh. B G Padmanabha Rao from the panel of daily wagers *w.e.f.* 20.11.1995 on the charges of fraudulent act committed by his is not legal and justified and that he is entitle for restoration of his name in the panel of Daily Wagers of Chitradurga District of II Party Bank as it was on 20.11.1995 and by way of compensation wages equivalent to 10% of the wages payable to the daily wagers *w.e.f.* 20.11.1995 at the ate prescribed by the Government from time to time till his name is restored in the panel of daily wagers and continue to provide his the work of daily wager. The II Party shall calculate the compensaiton payable to the I Party under this order within 30 days from the date of publicaition of the Award and pay it to the I Party failing which it will be liable to pay interest on the said total sum payable to him @ 12 % per annum.

(Dictated to UDC, transcribed by him, corrected and signed by me on 1st January 2014)

S. N. NAVALGUND, Presiding Officer

नई दिल्ली, 20 फरवरी, 2014

का०आ० 892.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनारा बैंक के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बैंगलूर के पंचाट (संदर्भ सं० 06/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 20.02.2014 को प्राप्त हुआ था।

[सं० एल-12012/26/2009-आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 20th February, 2014

S.O. 892.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 06/2010) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen, received by the Central Government on 20/02/2014.

[No. L-12012/26/2009-IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT**

DATED : 31st DECEMBER 2013

PRESENT : Shri S. N. NAVALGUND,
Presiding Officer**C R No. 06/2010****I Party**Shri Babu Mahagoankar,
C/o Mahammed Monuddin,

Flat No. 18, Shanti Nagar,
MSK Mills Road,
Gulbarga**II Party**The Deputy General
Manager,
Canara Bank, Circle Office,
IMA House, B Nagar,
Hubli - 29.**Appearances**I Party : Self
II Party : Shri T. P. Muthanna
Advocate**AWARD**

1. The Central Government *vide* order No. L-12012/86/2009-IR(B-II) dated 22/27.01.2010 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following:

SCHEDULE

"Whether the action of management of Canara Bank, Hubli in imposing the penalty of Compulsory Retirement from service of Shri Babu Mahagoankar, Ex-Sub-staff *w.e.f.* 07.01.2006 is justified. What relief the workman is entitled to?"

2. On receipt of the reference while registering it in C R 06/2010 when the notices were issued to both the sides the I Party appeared in person, whereas, the II Party appeared through Sh. T. P. Muthanna, advocate and his associates. The I Party who appeared on 09.04.2010 the first date given for appearance taken time to file claim statement till 25.05.2010 and on that day also on his request he was given time to file statement till 02.07.2010 and on that day though he did not turn up one more opportunity was given to file claim statement till 04.08.2010 and as on that day also he did not come one more opportunity was given till 06.09.2010 and on that day he appeared and requested for time and time was given till 06.10.2010 but on that day since he did not turn up taking that he has no claim statement to file the II Party was called upon to file its statement substantiating its action. Thereafter the I Party never turned up and participated in the proceedings and the II Party counsel on 04.11.2010 filed his statement substantiating the action and also by filing the affidavit of

Enquiry Officer examining him on oath as MW 1 got exhibited Ex M-1 to Ex M-59 the detailed description of which are narrated in the annexure and closed its side and submitted his arguments.

3. According to the II Party Sh. Babu Mahagoankar (hereinafter referred as I Party) while working as Sub-staff in the Gulbarga Main Branch during 16.12.1998 to 09.05.2003 was found removing four cheque books (each consisting of 10 leaves) from the branch which were not issued to the respective account holders and misutilizing 8 cheque leaves for fraudulent withdrawal of money from the accounts of the Branch presenting the cheques through clearing by opening fictitious accounts at Post Office and also fraudulently withdrawing of Rs. 900.00, attempt to withdraw of Rs. 900.00 from SB Account of Sh. Gopalkrishna, collecting Rs. 250.00 from the pensioner drawing his pension through Gulbarga Main Branch to open an account in the name of his wife and failing to open an account, remaining absent from his duties since 02.08.2004 without intimation/submitting leave application while on deputation to Regional Office, Gulbarga and in that regard after issuing show cause notice he was issued with charge sheet and held the departmental enquiry by appointing Sh. Vijaykumar B Patil as Enquiry Officer and Sh. Prakash Huddar as Presenting Officer. The I Party since never appeared before the Enquiry Officer inspite of serving notice and providing several opportunities he completed the enquiry and submitted his finding dated, 24.12.2005 holding the charges as proved. Then the Disciplinary Authority issued show cause notice proposing the punishment of compulsory retirement and after affording personal hearing imposed the punishment of compulsory retirement by his order dated 07.01.2006. Aggrieved by the said order an appeal was preferred to the Appellate Authority and Appellate Authority after affording opportunity to hearing while upholding the enquiry finding and also the punishment imposed by the Disciplinary Authority rejected the appeal by order dated 15.11.2006. Thereafter, the I party had filed a review petition before the higher authorities and same was rejected as there was no provision for such a review petition. Thus, it is contended the I Party having remained ex-parte in the Domestic Enquiry allowed the evidence adduced for the management unchallenged as such the Enquiry Officer without any option held the charges as proved and on the basis of the same while issuing show cause notice proposing the punishment of compulsory retirement after affording opportunity of hearing he has been compulsorily retired and same has been upheld by the Appellate Authority as such there is no reason to interfere in the same.

4. This contention in the counter statement is substantiated by examining the Enquiry Officer in the Domestic Enquiry and getting exhibited Ex M-1 to Ex M-59. Since the proceedings of the Enquiry Officer discloses that he afforded opportunity to the CSE/I Party to participate in

the enquiry and same was not availed and the Enquiry Officer after receiving the evidence tendered by the management submitted his finding the charges being proved. When this is the situation it was for the I Party to demonstrate how the finding of the Enquiry Officer is perverse and the punishment imposed is disproportionate to the misconduct proved against him but as already adverted to by me above the I Party did not care to file claim statement or to challenge the evidence of II Party in any manner by participating in the proceedings. Therefore, I having no reason to say that the Enquiry finding is perverse or the punishment imposed is disproportionate, I have arrived at conclusion of rejecting the reference holding that the action of the management of Canara Bank, Hubli in imposing the penalty of Compulsory Retirement from service of Shri Babu Mahagoankar, Ex-Sub Staff *w.e.f.* 07.01.2006 is justified. In the result, I pass the following.

ORDER

The reference is rejected holding that the action of the management of Canara Bank, Hubli in imposing the penalty of Compulsory Retirement from service of Shri Babu Mahagoankar, Ex-Sub Staff *w.e.f.* 07.01.2006 is justified.

S. N. NAVALGUND, Presiding Officer

ANNEXURE-I

Witnesses examined on behalf of II Party:

MW 1 - Vijaykumar B Patil, Enquiry Officer

Witnesses examined on behalf of I Party

Nil

Documents exhibited on behalf of management:

- Ex M-1 : Charge Sheet No. BLC/DAC/3043/E.37/CH-30/2005 dated 06.05.2005
- Ex M-2 : Letter dated 21.06.2005 of Sri Baby Mahagaonkar
- Ex M-3 : Appointment of Sh V B Patil as Enquiry Officer
- Ex M-4 : Appointment of Sh. Prakash Huddar as Enquiry Officer
- Ex M-5 : Preliminary enquiry notice dated 04.07.2005
- Ex M-6 : Proceedings of enquiry dated 18.07.2005
- Ex M-7 : Enquiry notice dated 19.07.2005
- Ex M-8 : Proceedings of enquiry dated 12.08.2005
- Ex M-9 : Enquiry Notice dated 25.08.2005
- Ex M-10 : Proceedings of enquiry dated 13.09.2005, 14.09.2005 and 22.09.2005
- Ex M-11 : Investigation Report dated 13.02.2004 of Sri U K Vaidya
- Ex M-12 : Investigation Report dated 12.04.2004 of Sri U K Vaidya

- Ex M-13 : Statement of Babu Mahagoankar dated 30.03.2004 in Kannada
- Ex M-14 : Statement dated 27.03.2004 of Shankar Jamdhari
- Ex M-15 : Letter dated 22.03.2004 of Gulbarga Post Office addressed of RO, Gulbarga.
- Ex M-16 : Post Office SB a/c opening form of Sushilkumar
- Ex M-17 : Post Office SB a/c opening form of Mallikarjun
- Ex M-18 : Investigation Report dated 16.10.2004 of Sri U K Vaidya
- Ex M-19 : Statement of Gopikrishna
- Ex M-20 : Statement of Sharanu dated 28.09.2004
- Ex M-21 : Ledger Sheet of SB a/c 31064 of gopikrishna
- Ex M-22 : Cheque No. 566410 dated 19.07.2004 for Rs. 900/-
- Ex M-23 : Cheque No. 594260 dated 19.07.2004 of Rs. 900/-
- Ex M-24 : Specimen card of SB 31064
- Ex M-25 : Statement of Babu Mahagoankar in English
- Ex M-26 : Statement of Babu Mahagoankar in Kannada
- Ex M-27 : Statement of Babu Mahagoankar dated 09.10.2004
- Ex M-28 : List of cheque book issued to account 31064
- Ex M-29 : Investigation Report dated 04.09.2004 submitted by Mohd. Moinuddin
- Ex M-30 : RO Gulbarga letter RO GLB DEV RO STF 2010 04 RAU dated 13.09.2004
- Ex M-31 : RO Gulbarga letter RO GLB 10 HO GLM MMD 2004-05 dated 06.08.2004
- Ex M-32 : Statement of Sri P R Prasad
- Ex M-33 : SS(W) CO Bangalore letter No. BLSW 22755 E.13 04 dated 28.04.2004
- Ex M-34 : SS (W) C O Bangalore AWL Proceedings BLC SSW E 13 70345 91 2004-05 dated 15.12.04
- Ex M-35 : Specimen card of SB 35816
- Ex M-36 : Gulbarga Main Branch letter 8 HO Staff 70345 04 dtd. 29.10.2004 to Staff Section C O Bangalore
- Ex M-37 : Staff Section (workman) C O Bangalore letter No. BLSWE 13 260552004 dated 24.09.2004
- Ex M-38 : Staff Section (workman) C O Bangalore letter No. BLC SSW 11032 EP 2004 dated 02.11.2004

- Ex M-39 : Specimen card of a/c 31064
- Ex M-40 : Cheque No. 566410 dtd. 19.07.04 for Rs. 900
- Ex M-41 : Cheque No. 594260 dtd. 19.07.04 for Rs. 900
- Ex M-42 : Statement of Sharnu dated 07.09.2004
- Ex M-43 : Investigation Report dated 09.09.2004
- Ex M-44 : Handwriting Expert Smt. CV Jayadevi Report dated 20.09.04
- Ex M-45 : Leave Pass Sheet of Babu Mahagoankar
- Ex M-46 : Written Brief dated 30.09.2005 submitted by Presenting Officer
- Ex M-47 : Letter dated 05.10.2005 submitted by Sri Babu Mahagaonkar to Enquiry Officer
- Ex M-48 : Findings of the Enquiry Officer dated 14.12.2005
- Ex M-49 : Letter dated 14.12.2005 forwarding the proceedings of Enquiry Officer to I Party by Deputy General Manager
- Ex M-50 : Submissions dated 24.12.2005 of the claimant on the Enquiry Officer findings
- Ex M-51 : Letter BLC DAC 2 2006 dated 03.01.2006 regarding personal hearing sent to Sri Babu Mahagaonkar
- Ex M-52 : Proceedings of the personal hearing dated 07.01.2006
- Ex M-53 : Punishment proceedings BLC:DAC: 4402:E.37:2006 dated 07.01.2006
- Ex M-54 : Orders of the Disciplinary Authority dated 07.01.2006
- Ex M-55 : Appeal dated 20.01.2006 filed by Sri Babu Mahagaonkar
- Ex M-56 : Letter No. BLCM:DAC:1099:2006 dated 12.10.2006 regarding personal hearing of Appeal
- Ex M-57 : Orders of the Appellate Authority dated 15.11.2006
- Ex M-58 : Review petition dated 18.12.2006 preferred against the orders of the Appellate Authority by Sri Babu Mahagaonkar
- Ex M-58 : Ind. Rel. Section, Personnel Wing, HO Bangalore letter IRS DP HBL 5747 RSP dated 05.01.2007

Documents exhibited on behalf of the I Party:

नई दिल्ली, 21 फरवरी, 2014

का.आ. 893.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक

प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 96/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/02/2014 प्राप्त हुआ था।

[सं. एल-12011/08/1996-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 21st February, 2014

S.O. 893.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 96/2003 of the Central Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 21/02/2014.

[No. L-12011/08/96-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE**BEFORE SHRI J.P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR****Case No. CGIT/NGP/96/2003**

Date: 29.01.2014

Party No. 1 : The Dy. General Manager,
State Bank of India, Kingsway,
Nagpur-440001.

Versus

Party No. 2 : General Secretary,
State Bank Workers Organization
(NOBW)
H.No. 542, Dr. Munje Marg, Congress
Nagar, Nagpur-440001.

AWARD

(Dated: 29th January, 2014)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of State Bank of India, Nagpur and their workman, Shri D.S. Joshi, for adjudication, as per letter No. L-12011/08/1996-IR (B-I) dated 01/02.04.1998, with the following schedule:—

"Whether the demand of the Union for treating Shri D.S. Joshi on duty from 24.07.1995 to 01.09.1995 is legal and justified? If so what relief the workman is entitled to?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written

statement and accordingly, the statement of claim was filed by the Union, State Bank Workers' Organization ("the union" in short) on behalf of the workman, Shri D.S. Joshi, ("the workman" in short) and the written statement was filed by the management of SBI, ("Party No. 1" in short).

The case of the workman as presented by the union in the statement of claim is that the workman was working in Nagpur branch of S.B.I. in the year 1995 and he was the general secretary of the union and he had to attend the departmental enquiry of one S.P. Mahajan as defence representative, at Dhule on 26.07.1995 and the date of enquiry was intimated to the workman by Party No. 1 vide letter dated 20.07.1995 and the workman started the journey for Dhule on 24.07.1995 and he attended the said enquiry on 26.07.1995 and the workman reported at Nagpur branch on 31.07.1995, after attending the enquiry as per the routine time of arrival and handed over the certificate issued by the enquiry officer for attending the enquiry at Dhule, to the Assistance Manager (cash) at 10.30 A.M. and the same was duly acknowledged by the Assistance Manager (cash) and the Assistance Manager (cash) informed the workman that his name to have been struck off from the daily attendance register on 25.07.1995 and he was advised to see the Manager (Accounts) or Asstt. General Manager for other details and throughout the day, the workman requested for the transfer order and the letter of introduction, but the same were not issued to him, so finally, the workman submitted the letter of presence on 31.07.1995 to the AGM, Nagpur branch, which was returned by the AGM to the workman at 5.30 P.M., with the remarks that, "You have already been transferred to Itwari branch at the close of business on 25.07.2005. A notice to that effect has already been displayed in the notice board on 19.07.1995 and also a registered letter was sent to you on 21.07.1995. Please report to Itwari Branch directly," and it was obvious from the said remarks that it was not the transfer order at all and the workman reportedly pursued for the transfer order, but the management truned down the request and ultimately, the organization raised the dispute by giving the strike notice on 25.08.1995 and during the course of conciliation, on 01.09.1995, the Party No. 1 gave the transfer order and the letter of introduction to the workman and as per the advice of the Asstt. Labour Commissioner, the workman reported to Itwari branch on 01.09.1995 and during the pendency of conciliation, the Party No.1 on 29.09.1995 issued a letter intimating that 30 days salary was recovered from his salary for the month of August, 1995 payable to him, for the unauthorized absence between the period from 24.07.1995 to 01.09.1995, as per the details of the absence given in the said letter and ultimately, the dispute was referred for adjudication.

It is further pleaded by the union on behalf of the workman that the present dispute was created out of the transfer of the workman from Nagpur branch to Itwari branch under the "Five year Transfer Policy" and the Party

No. 1 had formulated the said policy in consultation with their recognized Federation and though the union did not oppose the said policy, there were always disputes in the implementation of the same and the management had extended special protection to the office bearers of the recognized union, where as, the members and office bearers of the minority unions were harassed under the grab of the said policy and the case of the workman is also an example of such harassment and because of the pressure from the recognized union, the Party No. 1 decided to transfer the workman, the Vice President, Shri S.L. Bhisikar and the Zonal Secretary, Shri J.G. Nazar of the union from Nagpur branch to other branches of Nagpur city and it was obligatory on the part of the Party No. 1, as per the provisions of para 535 of Sastry Award to intimate the concerned employees and the union about the contemplated transfer at least five days before, but Party No. 1 failed to do so and the Party No. 1 relieved Shri Bhisikar and Shri Nazar on 25.07.1995 and the name of the workman was also struck off from the muster sheet on 25th July, 1995, when the workman was on duty leave to attend the departmental enquiry at Dhule, without any intimation to him and the action of Party No. 1 was completely motivated and irregular and the transfer was also illegal, as the same was done in contravention of the provisions of para 535 of Sastry Award and such action was taken by Party no. 1 with the malafide intention to demoralize the minority union and to favour the recognized union and the Party no. 1 did not serve any communication regarding the transfer to the workman till 5.30 P.M. on 31.07.1995 and Party No. 1 did not serve any order of transfer on the workman till 01.09.1975 and during the period from 31.07.1995 to 01.09.1995, the workman had tried on number of occasions to report on duty at Nagpur branch, but Party No. 1 did not permit him to join duty or served the order of his transfer to Itwari branch and it is clear from the remarks of the Asstt. General Manager that the decision for transfer of the workman to Itwari branch was taken prior to 19.07.1995 and the workman was in Nagpur branch till 2.30 PM on 22.07.1995, being Saturday and the decision of transfer of the workman to Itwari branch and the order in that respect could have been served on the workman alongwith the letter of intimation to attend the enquiry at Dhule dated 20.07.1995, which was received by him on 21.07.1995, but Party No. 1 did not communicate the order of transfer till 2.30 P.M. of 22.07.1995 and the Party No. 1 illegally deducted the wages of 30 days from the salary of the workman and the union had raised the dispute before the A.L.C. on 25.08.1995 and Party No. 1 deducted the wages of the workman during the pendency of the conciliation, without the permission of the A.L.C., in violation of section 33 of the Act and the workman had explained the details of his movement during the period from 22.07.1995 to 21.08.1995, by his letter dated 22.08.1995 and Party No. 1 did not give the workman any opportunity to explain the reasons of his absence and it was the period of lockout for the workman.

The union has also pleaded that the workman was engaged in the departmental enquiries from 24.07.1995 to 31.07.1995 at Dhule, from 05.08.1995 to 09.08.1995 and 16.08.1995 to 22.08.1995 at Khamgaon and he being the office bearer of the union was busy in organizational activity during 01.08.1995 to 04.08.1995 and 10.08.1995 to 15.08.1995 and the workman again approached the concerned authorities to report for duty on 22.08.1995, but all his efforts went in vain and the workman had been granted four days journey periods for to and fro journey to Dhule, but the Party No. 1 sanctioned two days journey period for attending the departmental enquiry at Dhule on 26.07.1995 and therefore, the action of Party No. 1 to deduct wages for 24.07.1995 to 28.07.1995 was illegal and the workman vide his letter dated 22.08.1995 had clearly mentioned that because of late arrival of train, he could not attend the Bank on 29.07.1995 and 30.07.1995 being a Sunday, he reported to Nagpur branch at 10.30 A.M. on 31.07.1995 and handed over the certificate granted by the enquiry officer to the Asstt. Manager (cash) and the Party No. 1 did not hand over the order of transfer to him on 31.07.1995 and for its own mistake, the Party No. 1 deducted the wages of the workman and the workman attended Nagpur branch daily from 22.08.1995 to 31.08.1995, but he was not allowed to perform the duties and the workman was on leave on 29.07.1995, 01.08.1995 to 04.08.1995 and 09.08.1995 to 16.08.1995 and because of such unforeseen and unwarranted circumstances, it was not possible for the workman to submit leave application for the said periods and Party No. 1 did not follow the laid down procedure before the recovery of the amount from his salary.

Prayer has been made by the union to direct the Party No. 1 to withdraw the order of transfer of the workman and so also that of Shri S.L. Bhisikar and Shri J.G. Nazar and to pay the wages of 30 days to the workman.

3. The Party No. 1 in the written statement has pleaded inter alia that an individual dispute has been projected as an industrial dispute and the onus is on the union/workman to prove that the alleged dispute is an industrial dispute, but there is no substantial material to support the claim and as such, the reference is to be answered against the workman.

It is further pleaded by the Party No. 1 that as per the five year transfer policy of the Head Office, Mumbai, it was decided by the Zonal Office, Nagpur controlling the entire Vidharbha zone to transfer the employees working in the same branch for more than five years to other branches of the Bank within the same city and in terms of the said policy, the zonal manager, zonal office, Nagpur by order dated 18.07.1995 directed the branch Manager/Asstt. General Manager, Nagpur branch to transfer the employees working in Nagpur branch to some other branches of the city, as per list and the AGM, Nagpur branch on 19.07.1995 placed a notice on the notice board of the branch, the list

of the transferred employees and place of transfer and sent copy of the said order by registered post with AD to the individual employees and on 24.07.1995, the workman left for Dhule to attend the enquiry of another employee, but however, he was expected to know about his transfer, as the transfer order was placed on the notice board of the branch on 19.07.1995, *i.e.* about six days in advance and in usual course, the workman should have reported on 28.07.1995, but he did not report on 28.07.1995 alleging that the train was late, but no proof of late arrival of the train was produced by the workman and on 31.07.1995, the workman by his letter submitted at 5.00 P.M. intimated that he reported for duty and was in the branch premises up to 5.20 P.M., but the branch did not find any evidence of his reporting to the branch and the workman might have visited the premises and delivered the letter dated 31.07.1995 at about 5.00 P.M. and it was brought to the notice of the workman by making endorsement on the letter dated 31.07.1995 itself about his transfer to Itwari branch, at the closure of the business on 25.07.1995 and about display of the notice in that regard on the notice board of the branch on 19.07.1995 and sending of registered letter on 22.07.1995 and he was directed to report to Itwari branch, Nagpur and there was no communication from the workman till 21.08.1995 for the reasons best known to him and the workman by his letter dated 22.08.1995 informed Nagpur branch that he is reporting for duty, but Nagpur Branch vide its letter dated 24.08.1995 informed the workman that he had been transferred to Itwari branch and his contention of his reporting for duty on 31.07.1995 at 10.30 A.M. to Deputy Manager (Cash) was not correct and to justify his absence from headquarters he has to submit his case before Itwari branch and all adverse allegations made by the workman in his letter dated 22.08.1995 were denied and the workman instead of reporting for duty to Itwari Branch, Nagpur, threatened the bank by another letter dated 26.08.1995 and made some wild and baseless allegations of illegal lockout and his union also served a strike notice dated 26.08.1995 and approached the ALC and as suggested by the ALC to resolve the dispute. Another letter was issued to the workman for reporting to Itwari branch and the workman reported to Itwari branch for duty on 01.09.1995 at about close of the business *i.e.* at about 5.00 P.M. and as the workman did not report for duty at Itwari branch till 02.09.1995, as per transfer order dated 19.07.1995, the branch manager of Itwari branch by letter dated 29.09.1995 advised the workman that salary of five days in July, 24 days in August and 1 day in September, 1995 to have been proposed for deduction, as his absence was unauthorized during the above said period.

It is further pleaded by Party No. 1 that the workman was well aware that his immediate division in charge was Chief Manager (Accounts and Administration) and not the Asstt. Manager (Cash) and there was no need to report to Asstt. Manager (Cash) and the workman intentionally

created false evidence of reporting to the Assistant Manager (Cash) and the workman has pleaded on the issue of illegality of transfer order, which cannot be agitated in the present proceedings and as the workman was already transferred to Itwari branch and his name was struck down from the roll of Nagpur branch from 25.07.1995, due to his transfer order dated 19.07.1995, there was no question of allowing the workman to sign the master roll and there was no question of the bank waiting for the return of the workman from Dhule, as there is no such law, rule or regulation in vogue in the bank and the transfer order was valid and legal and the said order was duly displayed in the notice board on 19.07.1995 and was also sent to the workman by registered post, so, it cannot be said that the order of transfer was not served on the workman and the workman has no say as to what he was doing from 31.07.1995 till 01.09.1995 and the union of the workman is not a recognized union in the bank, so the allegations of advance intimation does not hold water and it followed due procedure about the transfer of the workman and the letter dated 29.09.1995 was not illegal and as the workman was absent without sanctioned leave, the salary of the workman was rightly deducted for the period of absence and such deduction was not in violation of section 33 of the Act and the workman was not prevented by any authority from submitting leave application and the workman never demanded any introduction letter and it is admitted in the statement of claim that the workman was absent on 29.07.1995, 01.08.1995 to 04.08.1995 and 09.08.1995 to 16.08.1995 and due to unwarranted circumstances, it was not possible from him to submit leave application for the said period and it was the duty of the workman to submit the leave application and he cannot shift the burden on the bank to demand leave application and when no leave application had been submitted, it had every right to deduct the wages for the period of absence and the workman is not entitled to any relief.

4. Besides placing reliance on documentary evidence, both the parties have led oral evidence in support of their respective claims. The union has examined the workman as the only witness to prove the stands taken by it.

In his examination-in-chief, which is on affidavit, the workman has reiterated the facts mentioned in the statement of claim. However, in the cross-examination, the workman has stated that he approached the union in writing to raise the dispute on his behalf on 31.07.1995 and he has filed the originals minutes book of the union, Ext. W-4 and the union passed the resolution to raise his dispute on 30.07.1995 and Ext. W-5 is the resolution dated 30.07.1995 and the meeting dated 30.07.1995 was held one day after the submission of his application to the union. The workman has further admitted that the last four lines of Ext. W-5 are in a different ink and different hand writing than the rest contents of Ext. W-5 and Ext. W-5 does not have his signature and so also the signature of the person, who

recorded the same. The workman has also admitted that his union is not a recognized union of the bank and the office bearers of an unrecognized union of the bank and the office bearers of an unrecognized union were not entitled for the privileges available to the office bearers of recognized union and he was intimidated by the AGM that he had already been transferred to Itwari branch and the notice to that effect had been displayed on the notice board on 19.07.1995 and registered letter was sent to him on 21.07.1995 and he was directed by the AGM to report to Itwari Branch directly and inspite of the direction of the AGM on 31.07.1995, he did not join at Itwari branch till 01.09.1995 and after 31.07.1995, he did not submit either at Nagpur branch or at Itwari branch any letter stating that due to non-supply of transfer order and letter of introduction, he was not able to join at Itwari branch and he did not submit any leave application to the bank for grant of casual leave on 29.07.1995 and he did not intimate the bank in writing about his not attending duty on 29.07.1995 due to late arrival of the train in which he was travelling to Nagpur and he also did not submit any leave application to the bank for grant of leave from 31.07.1995 to 01.09.1995.

5. One Subroto Aboni Bhushan Mukherjee, an officer of Party No. 1 has been examined as a witness by Party No. 1. This witness has in his examination-in-chief on affidavit has reiterated the facts mentioned in the written statement. Though, this witness has been cross-examined at length, nothing of substance has been brought out to discredit his testimony.

6. At the time of argument, it was submitted by the learned advocate for the union that the workman being informed by the Party No. 1 as per letter dated 20.07.1995, which was received by him on 21.07.1995, left for Dhule on 24.07.1995 to attend the departmental enquiry as a defence representative, fixed on 26.07.1995 at Dhule and reported back to Nagpur Branch on 31.07.1995 and handed over the certificate issued by the enquiry office of his attending the enquiry on 26.07.1995 at Dhule, to the Asstt. Manager (Cash) at 10.30 AM and he acknowledged the same and though the workman was informed that his name had been struck off from the daily attendance register on 25.08.1995, no order of transfer and letter of introduction were given to him, inspite of his repeated request until 5.20 PM and therefore, he submitted a letter of presence on 31.07.1995 at 5.20 PM to AGM and the AGM made endorsement on the letter submitted by him that the workman had already been transferred to Itwari branch at the closure of the business on 25.07.1995 and that a notice to that effect was displayed on the notice board on 19.07.1995 and that a registered letter was sent to him on 21.07.1995 and the workman was also directed to report at Itwari branch and the said order cannot be said to be the transfer order and the Party No. 1 turned down the repeated request of the workman for transfer order and letter of introduction from 31.07.1995 to 24.08.1995 and thereby, the Party No. 1

restrained the workman from resuming duty and therefore, the union raised the dispute before the ALC on 25.08.1995 by serving strike notice and on 01.09.1995, the Bank gave the order of transfer and introduction letter to the workman for the first time and Party No. 1 on 29.09.1995 issued a letter to deduct wages of 30 days from his salary on the ground of unauthorized absence between the period from 24.07.1995 to 01.09.1995 and the workman in his letter dated 22.08.1995 addressed to AGM, Nagpur branch fully explained his movement during the period from 22.07.1995 to 21.08.1995 and the order of the transfer of the workman was illegal and so also the order of recovery of the wages of 30 days from the salary of the workman is illegal and the Party No. 1 did not allow the workman to submit any application for sanction of leave and Party No. 1 created the circumstances of illegal lay off from 31.07.1995 to 31.08.1995 and bank had never asked the workman to submit leave application, even though, the workman had sufficient leave at his balance and the action of the bank is absolutely unjustified, illegal and mala fide and it is a clear case of colourable exercise of power by the bank and there was violation of the provision of section 33 of the Act, as the letter dated 29.09.1995 for deduction of 30 days pay was issued while the dispute was pending for conciliation before the ALC and the workman is entitled for the declaration that he was on duty from 24.07.1995 to 01.09.1995.

7. Per contra, it was submitted by the learned advocate for the Party No. 1 that the present dispute has been raised by the General Secretary of the union on behalf of the workman and the union is not a recognized union in the bank and the workman has admitted such fact and as such, the union has no right to raise the dispute on behalf of the workman and the dispute is not an industrial dispute as it is clear from the contents of the statement of claim, evidence on record and that the claim is in respect of recovery of one month's salary of one employee only and the dispute is an individual dispute and the well known doctrine of "Unity of interest" has not been fulfilled in the instant case, hence, the Tribunal has no jurisdiction to adjudicate upon the dispute and it is clear from the evidence produced by the workman and his own admission in the cross-examination that the workman has misused his position as the General Secretary of the union and fabricated the records for filing the dispute on 31.07.1995 and the claim of the workman is against the averments made in the statement of claim and the action of Party No. 1, bank is justified and the workman is not entitled for any relief.

8. The first contention raised by the learned advocate for the Party No.1 is that the union has no authority to raise the dispute and the dispute is not an industrial dispute and an individual dispute has been given the colour of industrial dispute and it is clear from the statement of the workman in his cross-examination that the workman, who was the General Secretary of the unrecognized union at the relevant time, took advantage of his position and

manipulated the records of the union for filing of the dispute and as such, the Tribunal has no jurisdiction to adjudicate the dispute.

In reply, it was submitted by the learned advocate for the workman, that the issue as to whether the dispute is an industrial dispute or not has already been decided by this Tribunal by order dated 25.08.2011 and it has been held that the dispute to be an industrial dispute and therefore, there is no necessity to decide the said issue again. It was submitted that the industrial dispute was raised by the union on behalf of the workman, before the ALC and the union represented the workman during the conciliation proceedings and on failure of the conciliation, the Central Government referred the industrial dispute for adjudication making the union as a party and in view of the provisions of section 36 of the Act, the union is competent to represent the workman.

Admittedly, by order dated 25.08.2011, the issue as to whether the dispute is an industrial dispute or not was decided by this Tribunal, on the application filed by the management and the dispute was held to be an industrial dispute. So, there is no question of considering the same issue again by this Tribunal.

So far the contention raised by the learned advocate for the Party No.1 regarding the union of having no authority to raise the dispute on behalf of the workman is concerned, it is found from the record that the union had raised the dispute before the ALC on behalf of the workman and on submission of the failure report by the ALC, the Central Government referred the dispute for adjudication, making the union as a party. From the above stated facts and in view of the provisions of section 36(2) of the Act, it is held that the union is entitled to represent the workman in this reference.

9. At the outset, I think it necessary to mention that this reference has been made to adjudicate the legality or other wise of the demand of union to treat the workman to be on duty for the period from 24.07.1995 to 01.09.1995. It is also well settled beyond doubt by the principles enunciated by the Hon'ble Apex Court in a string of decisions that the Tribunal cannot travel outside the terms of reference and the jurisdiction of the Tribunal in industrial disputes is limited to the points specifically referred for its adjudication and matters incidental there to.

So, the contention raised by the union on behalf of the workman that the transfer of the workman and the Vice President and the Zonal Secretary of the union from the Nagpur branch to other branches of Nagpur city was with mala fide intention and was illegal cannot be considered.

Moreover, it is the admitted case of the union that it is a minority union and is not a recognized union of the Bank. It is also admitted by the union that the Bank has formulated the "Five Year Transfer" policy in consultation of the

recognized federation and it (union) has not opposed the policy in principle. It is also admitted by the union that the transfer of the workman and two other office bearers of the union was made by Party No.1 on the basis of the "Five Year Transfer" policy. According to the union, such transfer was malafide, as because five clear working days' notice was not given as required under para 535 of the Sastry Award. However, such allegation is patently wrong, as the provisions of para 535 of the Sastry Award are applicable only in regard to the transfer of the President, Vice-President and the Secretaries of recognized union of the Bank. Moreover, it is clear from the materials on record that the order of transfer of the workman was put up on the notice board of Nagpur branch on 19.07.1995 and his name was struck off from the roll on 25.07.1995, after closure of the business hours. It is not the case of the union that no such notice was put up on the notice board. So, there was even compliance of the provisions as provided in para 535 of Sastry Award.

10. On perusal of the materials on record including the evidence adduced by the parties, it is found that it is the admitted case of the union and so also the workman that on 31.07.1995, the workman was intimated by the AGM in writing that he had already been transferred to Itwari branch and a notice to that effect had been displayed on the notice board on 19.07.1995 and a registered letter was also sent to him on 21.07.1995 and the workman was also directed by the AGM to report to Itwari branch directly, but still then, the workman did not join at Itwari branch. According to the workman, as the transfer order and letter of introduction were not given, he did not join at Itwari Branch. However, there is no legal evidence on record to show that the workman demanded for the transfer order and letter of introduction from Party No.1 to join at Itwari branch. It is clear from the own pleading of the workman that he remained absent from 01.08.1995 to 04.08.1995 and 10.08.1995 to 15.08.1995, as he was busy in organizational activity of the union during the said period. It is also the admitted case of the workman that he did apply for any type of leave for remaining absent from duty for those days. So, there is no question of treating the workman to be on duty from 01.08.1995 to 04.08.1995 and 10.08.1995 to 15.08.1995.

11. According to the claim of the workman and the union, the workman was engaged in the departmental enquires from 24.07.1995 to 31.07.1995 at Dhule and from 05.08.1995 to 09.08.1995 and 16.08.1995 to 22.08.1995 at Khamgaon. According to their own case, the workman was intimated by the concerned authority to attend the departmental enquiry at Dhule as a defence representative fixed on 26.07.1995 and prior to the same, the workman had been granted four days journey time for to and fro journey to Dhule. However, no legal evidence has been adduced by the union in support of such claim. On perusal of the letter dated 29.09.1995, issued by the Party No.1, it is found that the workman was granted 25.07.1995 and 27.07.1995

i.e. two days for to and fro journey to Dhule to attend the departmental enquiry fixed on 26.07.1995 and did not propose to recover the salary from 25.07.1995 to 27.07.1995. There is no material on record to show that the workman had been permitted to attend the departmental enquires at Khamgaon. However, on perusal of the letter dated 29.09.1995, it is found that Party No.1 taking into consideration of the workman attending the departmental enquires at Khamgaon on 07.08.1995 and on 18.08.1995 and 19.08.1995 did not propose to recover the salary for the period from 06.08.1995 to 08.08.1995 and 16.08.1995 to 19.08.1995. So, there is no illegality in the action of the Party No.1 treating the workman absent from duty on 24.07.1995, 28.07.1995 to 31.07.1995, 01.08.1995 to 05.08.1995, 09.08.1995 to 15.08.1995 and 20.08.1995 to 31.08.1995 and 01.09.1995 and to recover the salary for those days.

12. According to the workman and the union, the workman did not know about his transfer till 31.07.1995 and no transfer order was given to the workman till 01.09.1995. However, the own document produced by the workman shows such claim to be untrue and that the workman knowing very well about his transfer to Itwari branch prior to 31.07.1995 tried to stall and avoid the transfer and intentionally did not join at Itwari branch till 01.09.1995 by taking an untenable plea of not handing over of the transfer order to him. The workman has produced the Minutes book of the union, which has been marked as Ext. W-4. According to the workman, there was a resolution by the union on 30.07.1995 to espouse his case before the ALC. The minutes of 30.07.1995 of the union has been marked as Ext. W-5. On perusal of Ext. W-5, it is found that in the said resolution, it has been mentioned that while the workman had gone to Dhule to attend the departmental enquiry, he had been transferred to Itwari branch and as such, the matter is required to be raised before the ALC. According to the workman on his application, the resolution was passed by the union. So, it is clear that the workman prior to his leaving for Dhule, knew about his transfer to Itwari Branch.

It is to be mentioned here that the copy of letter of presence submitted by the workman on 31.07.1995 to the AGM has been filed as Annexure-III alongwith the statement of claim. On perusal of the said letter of presence, it is found that the workman had not mentioned the time as to when he reported to the branch, to whom he reported and that he submitted the certificate granted by the enquiry officer for attending the enquiry on 26.07.1995 at Dhule to the Asstt. Manager (Cash) and so also the fact that he was informed by the Asstt. Manager (cash) that his name had been struck off from the roll at the end of the business on 25.07.1995 and he asked for his transfer order and letter of introduction, but the same were not given to him. Omission of such important facts in Annexure-III and the admission of the workman that in the statement of claim the name of the officers, whom he met to get his transfer order and

letter of introduction has not been mentioned clearly show that the workman had never demanded any transfer order and letter of introduction from Party No.1 to join at Itwari branch. It is clear from the pleadings of the union and the evidence of the workman that the workman was interested to do the organizational work of the union than to join duty and instead of joining duty from 01.08.1995 to 04.08.1995, he has claimed to have been engaged in organizational work of the union for the said period, without applying for any leave or intimation to the proper authority in that regard and inspite of the same, he has claimed to be on duty for those days.

It is the admitted case of the workman that on 01.09.1995, he was given the order of transfer and letter of introduction and he joined at Itwari branch on 01.09.1995. So, it cannot be said that the letter dated 29.09.1995 was issued in violation of section 33 of the Act.

From the materials on record and the discussions made above, it is found that the action of Party No. 1 to recover the wages of 30 days as per letter dated 29.09.1995 cannot be said to be illegal or unjustified. So, the claim of the union to treat the workman to be on duty from 24.07.1995 to 01.09.1995 is unjustified. Hence, it is ordered:—

ORDER

The demand of the Union for treating Shri D.S.Joshi on duty from 24.07.1995 to 01.09.1995 is illegal and unjustified. The workman Shri D.S. Joshi is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 21 फरवरी, 2014

का०आ० 894.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, दिल्ली के पंचाट (संदर्भ संख्या 25/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/02/2014 को प्राप्त हुआ था।

[सं० एल-12012/146/1995-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 21st February, 2014

S.O. 894.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/97) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Delhi as shown in the Annexure, in the industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 21/02/2014.

[No. L-12012/146/1995-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-II, DELHI

Present:- Shri Harbansh Kumar Saxena

ID No. 25/97

Sh. A.K. Saxena

Versus

State Bank of India

AWARD

The Central Government in the Ministry of Labour *vide* notification No.L-12012/146/95-IR (B-I) dated 25.10.97 referred the following industrial Dispute to this tribunal for the adjudication:

The Point runs as hereunder:—

"Whether the action of the management of State Bank of India, Meerut, Zonal Office in Discharging Sh. A.K. Saxena Clerk Cum Cashier from service is Just fair and legal ? If not, what relief he is entitled to?"

On 03.02.97 reference was received in this tribunal. Which was register as I.D. No. 25/97 and claimant/workman was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Smt. Chitra Saxena alleged herself to be wife of Deceased workman Late Shri A.K. Saxena filed claim statement on 17/9/1998 alongwith her affidavit.

On the basis of arguments made in it. She prayed that order of discharge passed by the Management on 28/07/1993 be declared as illegal suspension/discharge of the workman till his death as illegal and consider the workman as in service till his death and the workman may please be awarded all the service benefits including retirement benefits and job on compassionate grounds to her.

Smt. Manju Saxena alleging herself to be wife of workman Late Shri A.K. Saxena filed claim statement on 17/12/1998 along with affidavit.

On the basis of pleadings mentioned in it she prayed that the order of punishment be held illegal and invalid; the enquiry held against the workman is vitiated and the punishment is excessive harsh and disproportionate. It may further be held that the workman deemed to have been in service till his death/or retirement as the case may be and all back wages and other monetary benefits be awarded to the claimant. The terminal benefits, P.F., Gratuity etc. may also be given to the claimants.

Management in reply filed WS on 13/3/1999 wherein it denied the arguments of claim of statement and also alleged other grounds on the basis of which it prayed for dismissal of claim statement.

In reply to W.S. Smt. Manju Saxena on 16/11/2000 filed rejoinder. Wherein she denied the allegation of W.S. and reaffirmed the contents of her claim statement.

My Ld. Predecessor has not framed any issues but proceeded on the basis of reference to decide the questions of determine mention in its schedule.

The Case of the workman is that he was served with a charge-sheet regarding filing of false Leave Fare concession for Rs. 6591 for going Puri.

In support workman case WW1 Smt. Manju Saxena filed affidavit on 9/5/2001. Wherein she mentioned as follows:—

1. That the deponent is legally wedded wife of the deceased workman and represent the present case in this Court/Commission and is well acquainted with the facts and circumstances of the case as deposed hereunder.
2. That the deponent and claimants No. 2 to 4 are legal heirs of the deceased workman. Claimant No. 2 to 4 are Daughters and Son of their parents deceased workman and deponent. The succession certificate obtained by the LR's of the deceased workman from a competent Civil Court of Bulandshehar. The workman died on 12/01/1996. Deponent is being the mother of her daughter and son make the following claim.
3. That the deceased workman was working in the State Bank of India in the clerical cadre. His services conditions are governed by various Awards, Bipartite settlements, etc. He was charge sheeted *vide* charge sheet dated 30/10/1991 for misconducts.
4. That the workman availed leave for concession in terms of his service conditions in January, 1989 due to family problems he could not submit his bills and requisite proformas immediately, but did the same on 02/03/1990.
5. The bank initiated a departmental enquiry against the workman. During course of the enquiry the workman learnt that he has mentioned two sets of tickets numbers in his L.F.C. bill one having 4 digits numbers and the second having 5 digits numbers, but due to delay in lodging the bill, have inadvertently mixed in the details creating confusions doubts. It also transpired that the Eastern Railway Tundla issue 5 digits tickets. Therefore, mentioned two sets of numbers in the bills was correct otherwise.
6. That before the bank's representative placed his evidence in the departmental enquiry, the workman, on the basis of the understanding his representative reached with the A.G.M., R-II, made a statement accepting the possibility of the mix-up in the details. The Bank accepting the Statement did not proceed

further with the enquiry and the enquiry was waived and closed at that very stage. During the course of enquiry the workman made a statement before the enquiry officer, accepting only the possibility of mix-up in the details of the tickets and after the statement of the workman the said enquiry was closed. The claimant never accepted charges leveled against him and also not accepted that he had not undertaken the journey.

7. That as per the provisions of the Bipartite Settlement providing for waiver of enquiry, it is stipulated that "an enquiry need not be held if".

- A (i) The Bank has issued a show cause notice to the employee advising him of the misconduct and the punishment for which he may be liable for such misconduct.
- (ii) The employee makes a voluntary admission of his guilt in reply to the aforesaid show cause notice; and
- (iii) The misconduct is such that even if proved, the bank does not intend to Award the punishment of discharge or dismissal. However, if the Employee is concerned requests a hearing regarding the nature of Punishment, such a hearing shall be given.
- B (i) An enquiry need not be held, if the employees is charged with minor misconduct and punishment proposed to be given is working of censure.

It is respectfully submitted by the Management the existence of the Bipartite Settlement and admitted/ undisputedly the same has not been complied with the case of claimant. The alleged show cause notice was not issued inconsonance of Bipartite Settlement not there was any unequivocal admission of the charge, neither there was any enquiry conducted by the Management. The punishment in question is based on no enquiry what to say of any credible evidence.

8. That the Enquiry Officer recorded a perverse finding holding that the Banks representative has ably presented his case, whereas, the enquiry proceedings were closed on the basis of the statement of the workman, even before the Bank's representative had presented his case. The finding reflects the bias of the enquiry officer; not based on conjectures. During the course of employment, the workman was intoxicated. Hence, the Charge and findings are illegal and invalid, being outside the principle of nature justice and fair play.

9. That the decision of the A.G.M. Region-II (Disciplinary Authority) On the Basis of basis of probable, imagination, presumption and assumptions instead of any proof. It is

submitted that in his statement the employee has categorically stated (a) that he did travel to Puri-which is not refused by the Bank; (b) that he noted down the ticket numbers, submitted by the Bank reported to have been received from the Railway marked as P13 & P20 do evidence that 4 & 5 digits tickets do exist-this is also not refused by the Bank's Representative; (c) that the employee has categorically stated in his statement that trains he mentioned in the bill do exist and gave a copy of the time table in support thereof-this has also not been refused by the Bank's representative; (d) that the employee has stated that he was enjoying his own way on the holiday trip and might have mixed up the details—this to has not been refuted by the Bank's representative. The Bank's representative has not recorded any evidence while he has filed the list of witness. If a witness appears before the enquiry officer and deposes to the truth of contents of document then submits himself to cross-examination, therefore, the bank has failed to prove his case and all the documents are inadmissible in the evidence, filed by the bank. It is the case of no evidence, hence the decision of the AGM Region-II made up the charges after considering the submission made by the employee during the personal hearing.

10. That the workman protested/represented against the illegal decision and short a personal hearing in the matter *vide* his representation dated 2nd may 1993.

11. That the Asstt. General Manager was reminded about the understanding given to the workman's representative that in the event the workman gives the statement as recorded, he would not be discharged or dismissed and instead the Disciplinary Authority would to be discharge or dismissed and instead the Disciplinary Authority would waive the enquiry interms of the enquiry in terms of the provisions stated in para 7 above, but due to some unknown ill-will the Asstt. General Manager did not keep up his works and the rules and discharged the workman without notice in terms of paragraphs 521(5)(e) of the Shastry Award read with para 18.28 of the Desai Award.

12. The punishment inflicted by the Bank as is at variance with the para 521 (5) of Shastry Award with the above provisions and is thus illegal. The Management has not followed the proper procedure in accordance with the provisions of the Bipartite Settlement.

13. That aggrieved by the harsh and illegal disproportion the workman appealed to the Dy. General manager, State Bank of India, Meerut Zonal Office, *vide* his representation dated 20th September, 1993. The punishment imposed upon the claimant was harsh and disproportionate the charges leveled against him. It is submitted that the punishment imposed upon the claimant is based on no evidence neither any enquiry was conducted as per the list of witnesses was ever examined. The whole punishment is based on a statement of the delinquent, which cannot be turned in

any manner an admission or confession of the charge levelled against him. It is again submitted the incident was of the year 1989 and the alleged enquiry was started in the year 1992, however, no credible effort was made by the Management.

14. That the Dy. General Manager, SBI Zonal Office, Meerut, did not apply his mind to the pleadings/documents submitted by the woman and instead confirmed the illegal decision of the Asstt. General Manager *vide* letter No. MRT/R-II/PCF/45 dated 27th April, 1994.

The Dy. General Manager has also failed to appreciate that the enquiry proceedings were closed, without either side presenting and providing its case. And in the instant case the onus to prove the case was upon the Management. The Dy. General Manager cannot point out the weakness of the defence to prove the case instead, of establishing the misconduct on the basis of the bank's own evidence. If the Dy. General Manager had applied his mind he he mind he would have observed that the adoption of the procedure of the enquiry followed by the Enquiry Officer was insufficient or irregular. It is again return on the cost of repetition that no prudent person can arrive on the conclusions arrived by the enquiry officer and confirmed by the AGM, Region-II, and also by the Dy. General Manager. There is no evidence in the present case against the delinquent.

15. That the Bank denying natural justice and the workman is left with no alternative but to request you honour to intervene in the matter. It is stated that the statement of the employee is not clear and unequivocal does not come under the admission, therefore, a decision based upon inadmissible admission is denied of natural justice, hence the alleged enquiry is farce.

16. That the Claimant/Deponent Mrs. Manju had been nominated for receiving Gratuity and PF by the deceased and even otherwise the claimants alone are legally entitled to all monetary and other benefits.

She tendered her affidavit on 24/01/2005 and she was cross examined on the same day. Her Examination in chief and cross examination is as follows:—

I have filed my affidavit in my evidence. The facts mentioned therein are true and correct. The same be read as part of my statement. I have also filed succession certificate and I rely on the same. My affidavit is Ex. WW1/A and succession certificate is Ex. WW1/1. I am legally wedded wife of Late Shri A.K. Saxena. We had one son named Pankaj Saxena, 27 years of age and two daughters namely Mrs. Anuradha Saxena and Mrs. Sarita Saxena, out of the wed-lock.

xxxxxBy Shri Rajat Arora Advocate A/R for the Management.

I have come to know later on that some departmental enquiry was conducted against my late husband. I had

never attended the said enquiry against my husband. It is correct that I have no personal knowledge of the said enquiry. Vol. that my husband had told me about the said enquiry. I do not know that contents of my affidavit Ex. Again said I was told about the contents of the said affidavit by my advocate. I do not know English. I am illiterate. I can only know how to sign in Hindi. I was explained the contents of the said affidavit by my counsel. However, I do not know recollect the same now. I do not know any personal knowledge of any settlement between my husband and management as mentioned in my affidavit. Vol. I was told about the same by my counsel. I do not know Mrs. Chitra Saxena. However I have been her in the court only. My husband had never told me about her before. I do not know the year when my marriage took place. However, I was married on 24th of November I now do not recollect the day which fell on 24th of November. My marriage has taken place in Sanjay Nagar Shankar Nagar Delhi and my husband hailed from Aligarh My inlaws house is situated at Aligarh.

I had filed the succession in certificate Ex. WW1/1 which I obtained from Bulandsehar Court. Myself and my children had gone to Bulandsehar court to attend the proceedings for obtaining succession certificate. It is incorrect to suggest that enquiry conducted against my husband was fair and legal. It is incorrect to suggest that I and my children are not entitled to the claim. Succession certificate is not certified true copy of the succession certificate from the Court.

That the Management initiated departmental inquiry against the workman. The workman learnt during the course of inquiry that he has mentioned two sets of tickets in his LFC bill because of lapse of time and due to confusion mixed up the two sets of tickets inadvertently.

The Inquiry Officer verified the genuineness of these tickets and Railway authority denied issuance of the tickets of (04) digit. The Inquiry Officer on the report of the railways drew a perverse conclusion and held misconduct of the workman. The Workman had admitted that there was mixing of tickets because of confusion. The Enquiry Officer did not apply his judicial mind and he has held him guilty hastily and he was pre-determined to hold so. The Enquiry Officer has illegally held that the workman has failed to furnish any valid supporting document to prove that he actually visited the place mentioned in the bill.

That the Enquiry Officer did not consider the statement of mixing up of the tickets.

The case of the management is that two ladies namely Smt. Manju Saxena and Smt. Chitra Saxena are claiming to be the wives of Late Shri A.K. Saxena. The Court has no jurisdiction to decide as to who was the real legal representative of the workman.

The findings of the Inquiry Officer are not whimsical. He has acted in a reasoned and methodical manner. The

claimant in the inquiry proceedings has admitted the charges leveled against him. The claimant had mentioned two sets of ticket numbers in his LFC bill. One having (04) four digit number and the second having (05) five digit number. There has been no hurry on the part of the Inquiry Officer.

That the Inquiry was closed after the claimant had accepted the charges leveled against him *vide* charge-sheet dated 30/10/1991. During the course of inquiry the CSE made statement before the Inquiry Officer admitting the charges leveled against him and on subsequent dates it was further stated clearly and unequivocally by the employee as well as defence representative that the charges leveled against the employee are admitted and prayed for taking a lenient view and close the inquiry. The Inquiry Officer closed the inquiry, as no evidence was to be taken in view of unequivocal confession of the workman.

The Workman has filed rejoinder. In the rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Management in support its case filed affidavit of Sh. Ramesh Kumar Gupta wherein he stated as follows:—

1. That the deponent at the outset states that the two statements of claims have been filed one on behalf of Smt. Manju Saxena and another claim on behalf of Smt. Chitra Saxena both claiming themselves to be the legally wedded wife of the deceased workman namely late Shri A.K. Saxena. The deponent submits that the Hon'ble Court may decide upon the validity of two statements of claim while filed by either of the ladies claiming themselves to be the lawfully wedded wife of Late Shri A.K. Saxena. The Hon'ble Court would be governed under section 10 of the ID Act 1947 and would have to decide the reference in accordance with law and the controversy with regard to the legally wedded wife of the claimant being not a matter before this Hon'ble Court, may be left to the discretion of the competent court to decide.
2. That the deponent submits that the deceased workman namely Shri A.K. Saxena was served with a charge sheet dated 13.12.1991 where in it was alleged against him that he has submitted a false leave concession fare form. The reply given to the chargesheet being found unsatisfactory, a departmental enquiry was initiated against the deceased workman in which Shri I.C. Trikha was the enquiry officer and Shri Joginder Singh was the presenting officer. The workman had participated in the enquiry and had admitted to the charges. The entire enquiry proceedings have been filed before the Hon'ble Tribunal and the same goes on to show

that the same were held in accordance with the principles of natural justice and the workman accepted the charges leveled against him.

3. That after the conclusion of the departmental enquiry, the Enquiry Officer gave his findings where he held the charges against the workman were proved in view of the admission of the charges. The Disciplinary Authority thereafter proposed the punishment of dismissal from service and a personal hearing was also given. That after the personal hearing, the Disciplinary Authority *vide* its order dated 22.08.1993.
4. That the workman had thereafter preferred a appeal to the Appellate Authority and the Appellate Authority after considering the case of the claimant had confirmed the order of punishment of discharge imposed upon the claimant *vide* its order dated 27.04.1994.
5. That the deponent states that the enquiry proceedings were held in accordance with the principles of natural justice in which all opportunities were given to the claimant to prove his case. The deponent further submits that the list of documents filed by the management along with its written statements dated 13.3.1999 and 01.02.2000 may be read as part and parcel of this affidavit also.

He tendered his affidavit on 27/02/2006 and he was partly cross examined on the same day and partly on 18/04/2006.

His examination in chief and cross-examination is as follows:—

I have filed my affidavit in evidence on behalf of the management alongwith copies of documents. The facts mentioned in my affidavit are true and correct as per record. My affidavit Ex. MW1/A be read as part of my statement. The workman is not entitled to the relief claimed.

I am not aware if any succession certificate has been deposited with the management by wife of the workman. Enquiry was conducted by the bank in this matter. Due procedure of conducting the enquiry was adopted by the bank. The workman was afforded opportunity to appear in the enquiry and he participated during the proceedings of the enquiry. It is correct that management has mentioned in the written statement that the workman has admitted the charges leveled during the enquiry. The workman have admitted his statement made during enquiry.

Workman has admitted the charge leveled against him during enquiry proceeding in question is mark A to A page 7. It is incorrect to suggest that the workman made any admission as stated. The workman never stated anywhere during enquiry or otherwise that he did not undertake the journey. It is incorrect to

suggest that the management respondent did not adduce any evidence oral as well as documentary. It is incorrect to suggest workman was not afforded an opportunity to cross-examine the witness produced on behalf of the management. It is incorrect to suggest that principles of natural justice were violated during the enquiry as the same were not followed. It is incorrect to suggest that the punishment awarded to the workman claimant is disproportionate to the charge. Vol. punishment was awarded as per relevant rules/law. It is incorrect to suggest that I am deposing falsely or that the workman/L.R's of workman is entitled to any relief claimed.

I have heard the arguments of the Ld. A/R's for the parties and perused the pleadings and evidence of parties including written arguments of workman.

Smt. Manju Saxena has filed succession certificate of Civil Court and Smt. Chitra Saxena has filed warison certificate. Payment EPF has been made to Smt. Manju Saxena.

It has been submitted from the side of the workman that he was in the habit of remaining under the influence of alchohol, so he could not know the timings of the trains and train number and the number of tickets on onward journey and return journey so he mixed up the tickets and under the influence of alchohol he gave false particulars in his LFC bill. His confession is not voluntary as the management is duty bound to hold a detailed inquiry. The statement made by the workman is not clear conclusive. It cannot be inferred that the workman pleaded himself guilty before the management.

It was submitted from the side of the management that the workman has clearly and specifically admitted the charges leveled against him. He has admitted the charges in the presence of the employee representative and he has also stated that "EPA admits the charges". The workman has admitted that he travelled to Puri along with his family and brother-in-law but as he was fond of drinking and sometimes got over intoxicated in the process and that he may have noted down the tickets and train number wrongly under the influence of liquor. He has further stated that he was sorry that due to his bad habit of drinking he made mistake and mixed up the tickets etc. while preparing the bill.

He has further admitted that he has got short his journey at Puri due to some family dispute.

The workman has admitted in his cross-examination that he has a bit more than his normal drinking therefore; he remembered no details of the place of his destination.

The workman has also admitted that in the inquiry that it is also possible that under the effect of intoxication he would have noted the ticket numbers, train numbers and timings wrongly.

It was submitted from the side of the management that the EPA has admitted categorically unequivocally during the course of inquiry that he failed to note down the ticket number, train number and timings wrongly, so in his fake TA bill the workman has mentioned wrong train number, wrong ticket number and wrong timings and he had mentioned noted all particulars of ticket number, train number and timings wrongly under the influence of liquor. The admission of the workman has been admitted even by his defence representative. The workman admitted before Sh. S.K. Pandey, employee Representative these facts and he wrote a letter dated 25.05.1993 to DA and prayed for holding a lenient punishment as it would affect livelihood of his family.

Thus, in the letter dated 25.05.1993, the workman has prayed for awarding a lenient punishment. He has not disputed that inquiry was not held against him.

It becomes quite obvious from perusal of the LFC bill of the workman that not only ticket number, train number but the timings are also not correct. He may not have noted down the train number and the timings as he taken more than the normal alcohol but he was taken more than the normal alcohol but he was accompanied by his brother-in-law and members of his family and they could have told him the real timings and train numbers.

It was not necessary for him to admit that he has wrongly mentioned wrong train number, timings and ticket numbers. He can have filed even the proof of his journey to Puri and his presence in Puri during the relevant period but the workman has not filed any such document regarding his visit and stay at Puri.

It appears that the workman has actually not undergone his journey and he intended to claim LFC without undergoing the journey by mentioning wrong train number, ticket number and timings. He actually did not perform the journey.

I have perused the admission of the workman in the inquiry proceedings and the confirmation of the same by the employee representative. The admission of the workman has been confirmed by his representative and he has written to the DA for taking lenient view. In the circumstances, admission is categorical and ambiguous.

It appears that he always remained under the influence of alcohol. There is no justification in relieving such an employee. Smt. Manju Saxena has received EPF amount whereas Smt. Chitra Saxena has been mentioned as nominee. However, Smt. Manju Saxena is the real legal representative of the deceased workman Sh. A.K. Saxena as per succession of the Civil Court.

It was not necessary to hold further inquiry by the Inquiry Officer in view of the inambiguous voluntary and unequivocal admission of workman. Thus, it is established the workman Sh. A.K. Saxena has not undergone the journey *i.e.* why he has mentioned wrong train number, ticket number and wrong timings but because punishment is Disproportionate to misconduct. Thus in the instant case punishment of workman as being excessive and harsh. His punishment of removal is accordingly modified to punishment of stoppage of three increments on the basis of principle laid down by their lordship of Hon'ble High Court in case of M/s. Co. Operative Store Ltd. Vs. Usha Kumar 1997 LAB I.C. 833. Reference is liable to be decided in favour of the Workman and against the Management. Which is accordingly decided.

Award is accordingly passed.

Dated: 16/01/2014

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 21 फरवरी, 2014

का०आ० 895.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 5/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/02/2014 को प्राप्त हुआ था।

[सं. एल-41025/01/2014-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 21st February, 2014

S.O. 895.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 5/2009) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of South Central Railway and their workmen, received by the Central Government on 21/02/2014.

[No. L-41025/01/2014-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Smt. M. Vijaya Lakshmi, Presiding Officer

Dated the 27th day of December, 2013

INDUSTRIAL DISPUTE LC No. 5/2009

Between:

Shri Avidi Pallaya,
S/o Avidi Adiyya,
C/o R. Yogender Singh,
Advocate, 1-10-123,
Temple Alwal,
Secunderabad—500 010.

....Petitioner

AND

1. The General Manager,
South Central Railways,
Secunderabad.
2. Financial Advisor & Chief Accounts Officer,
FA & CAO's Office,
South Central Railways,
Rail Nilayam, Secunderabad.

...Respondents

Appearances:

For the Petitioner : M/s R. Yogender Singh, C.V.N.
Rama Krishna &
S. Maheshwarudu, Advocates
For the Respondent: Party in Person

AWARD

This is a petition filed by Sri Avidi Pallayya the workman invoking Sec. 2A(2) of Industrial Disputes Act, 1947 seeking for setting aside the termination order dated 14.10.2005 passed by the Respondent declaring it as void, illegal and also direct the Respondent to reinstate the workman into service with back wages and all attendant benefits and also to regularise his services.

2. The averments made in the petition in brief are as follows:—

Petitioner was appointed as bungalow peon attached to Deputy E.A. & CAO/CII/SC vide Office Order dated 11.11.2004. During September, 2005 since his father fell sick Petitioner requested his employer to grant leave to enable him to attend his father. At that time his employer asked the Petitioner to write a letter as per his dictation. Petitioner is a Telugu medium student and he is not acquainted with English language. Whatever his employer has dictated Petitioner has written on the paper and submitted it to his employer. Petitioner received a letter dt. 13.9.2005 directing him to report and resum duties immediately. Though he reported he was not taken into service on some or other pretext. Since then he was made run around the office for his employment. Vexed with the same he has written letter dated 6.8.2007 with the help of an officer. As there was no reply he again wrote a letter on 25.8.2008 to which the 2nd Respondent issued a reply dated 19.9.2005 stating that Petitioner has already resigned the job. It has been a shocking news to the Petitioner. Petitioner was engaged for a period of 330 days at a

stretch without any break of any sort. During that period he received only Rs. 9814/- in the Month of January, 2006. As per railway rules a casual employee is entitled for regularization immediately after completion of 180 days. But, Petitioner's services were not regularised. Whatever correspondence took place on behalf of the Petitioner was drafted by the employees/officials of the Respondent and he got no knowledge of the contents of the letter except the fact that he received an amount of Rs. 9814. Only in the month of September 2008 he came to know that the letter written by him as per dictation was resignation letter. He was informed that his services were terminated by virtue of his resignation dated 19.9.2005 which was accepted on 14.10.2005. Thus, it is clear that his services were terminated on 14.10.2005 without following due process of law. The termination order is to be declared as void and illegal. He is to be regularised in service with back wages and all other consequential benefits.

3. Respondents No. 1 & 2 filed their counter with the averments in brief as follows:

Union of India is not made a party to this petition hence, this petition is liable to be dismissed for non-joinder of necessary party. Contention of the Petitioner that second Respondent has obtained signatures of the Petitioner on blank papers is false and it is a *malafide* and frivolous contention. Petitioner was paid an amount of Rs. 5733 (Gross) and his net pay was Rs. 5673/- after deducting Rs.60 towards Professional Tax towards his salary for September, 2005. He was paid an amount of Rs.1971 (gross) and Rs. 1955 (net) after deducting Rs.16 as professional tax as salary for 11 days in October, 2005 consequent upon regularization of absent period as leave following his resignation which is accepted with effect from 14.10.2005 vide order dated 7.11.2005. A net of amount of Rs. 7704 was drawn vide bill dated 8.12.2005. Further, an amount Rs.1886/- was also paid vide bill dated 8.12.2005 for PLB for 2004-2005. These amount were paid with bank account with Bank of India, Tadepalligudem pertains to the Petitioner. Petitioner was paid total salary for the period of his services. For the period after the resignation was tendered, question of payment of wages does not arise. Contention of the Petitioner that he worked for about an year after tendering resignation and he has not received any wages is not correct. It does not entitle him for payment of wages. He voluntarily tendered resignation by letter which was received on 19.9.2005 in his own handwriting duly signed by him. The said resignation was accepted by first Respondent vide office dated 7.11.2005. Accepting the resignation with effect from 14.10.2005, the same was communicated

to the Petitioner to his native address. Two years thereafter *i.e.*, on 6.8.2007 and later on 25.8.2008 Petitioner gave representation requesting for his reinstatement into service. His representation dated 25.8.2008 was replied by the Respondents on 12.9.2008. Petitioner is not an illiterate. He passed intermediate and got ITI certificate as fitter which prove that he is literate and got knowledge in English language. He is capable of reading and writing English. Question of regularization of his services arises only after his completing three years continuous and satisfactory service as per Railway Boards' policy letter regarding engagement of Bungalow peon circulated by CPO/SC *vide* letter dated 18.10.2004. The same was also incorporated under condition No.3 of the appointment Order of the Petitioner. Petitioner has not even completed one year of service. He served only for 11 months and one day, *i.e.* 11.11.04 to 14.10.05. Further he himself resigned the service voluntarily and the same has been accepted by virtue of order dated 7.11.2005. Thus, question of regularization of his services does not arise. He was paid wages for his entire period of work. Thus, question of reinstatement of the Petitioner into service also does not arise. Petition is liable to be dismissed.

4. To substantiate the contentions of the Petitioner WW1 was examined and Ex. W1 to W3 were marked. On behalf of the Respondent MW1 was examined and Ex. M1 to M12 were marked.

5. Written arguments were filed for the Petitioner. Heard either party.

6. The points arise for determination are:

- I. Whether the order terminating the services of the Petitioner/workman by the Respondents is valid and legal?
- II. Whether the Petitioner/workman is entitled for the relief of reinstatement into service, regularization of his services, back wages and other attendant benefits?
- III. To what relief he is entitled?

7. Point No. 1

Petitioner/workman has been appointed as Substitute Bungalow Peon to the then Dy. FA & CAO/C-II/SC *vide* order dated 11.11.2004. Sri Raju Kancherla was the said officer at the relevant time. He has been examined as MW1. Ex W1 is the order of appointment dated 11.11.2004 under which the Petitioner has been appointed as substitute Bungalow Peon. Ex. M7 is also copy of the same appointment order. Admittedly Petitioner has worked as substitute bungalow peon for MW1 for 11 months only, as even as per his own version, since 14.10.2005 he failed to

attend to his duties. Ex. W2 the letter dated 6.8.2007 and Ex. M4 the letter dated 25.8.2008, both of which are the letters addressed by Petitioner to the Respondents, do contain an averment that Petitioner has not attended to his duties since 14.10.2005.

8. It is the contention of the Petitioner that he could not attend to the duties since 14.10.2005 due to his father's ill-health and also his own ill-health. Whereas it is the contention of the Respondents that Petitioner has resigned his job. According to them Petitioner submitted the original of Ex. M3, the letter of resignation, which has been received in their office on 19.9.2005. It is also their contention that the resignation tendered by the Petitioner has been accepted with effect from 14.10.2005 by virtue of Ex. M12 order dated 7.11.2005. That means, as per the contentions of the Respondent, since 14.10.2005 Petitioner ceased to be their employee, by virtue of acceptance of resignation tendered by him.

9. As can be seen from the contentions of the Petitioner put forth in this proceeding, he is not denying his giving Ex. M3 letter. He is admitting that it is in his own hand writing and that it bears his signature. But it is his contention that he never tendered any resignation and that he has written Ex. M3 letter to the dictation of MW1 without having comprehension of the wording therein, since he got no acquaintance with English language as he has been a Telugu Medium student. MW1 vehemently denied the truth of this contention.

10. The fact remains that Ex M3 letter, which is in English is admittedly in the hand writing of the Petitioner workman. A perusal of Ex. M3 is giving rise to an impression that Petitioner who is the scribe of the said letter, is well accustomed to writing in English. Further more, the copies of the education qualification certificates pertaining to the Petitioner and which are produced before the court by the Respondent and marked as Ex. M1, M2, M9 and M10 clearly prove that Petitioner got acquaintance with English language. There is every possibility for him to be proficient in the said language since he studied upto intermediate English as his second language and securing sufficient marks to pass the said subject. Considering all these aspects one can reasonably believe that the contention of the Petitioner, that without having comprehension of the wording in Ex. M3 he has written the said letter is not an acceptable version.

11. It is the contention of the Petitioner that he has written Ex. M3 letter to the dictation of MW1, thinking that it has been a leave letter. This is an improbable version. Even a person who got only school education can understand the difference between the words "resignation" and "the leave" whereas Petitioner studied upto intermediate.

12. One other circumstance to be noted is that, Petitioner is contending that he has written a letter with the

understanding that he was seeking for grant of leave but to the dictation of MW1 before proceeding on leave, but he in his written representations submitted to the Respondents *i.e.*, Ex. W2 and Ex. M4, conspicuously he failed to mention about his submitting a letter seeking for grant of leave. On the other hand he categorically claimed that he was unauthorizedly absent from duty since 14.10.2005.

13. 14.10.2005 is a crucial date for the reason that as per Ex. M12 order the resignation said to have been tendered by the Petitioner has been accepted with effect from the said date. Another important circumstance to be noted is, Ex. M3, the letter of resignation has been received in Respondents office on 19.9.2005. Even thereafter and upto 14.10.2005, the date with effect from which the resignation has been accepted, Petitioner continued to attend to his duties. If actually he was of the mind to seek for grant of leave by virtue of Ex. M3 letter, on the ground of the serious illness of his father and was intending to proceed on leave immediately, he would not have been worked upto 14.10.2005, since the said letter has been addressed much prior to the date 14.10.2005.

14. In view of the fore gone discussion of the material on record one can see that the contention of the Petitioner that without having any comprehension of the purport of Ex. M3 letter and to the dictation of MW1 he has written that letter thinking that it has been a letter seeking for grant of leave, is not at all a correct version. On the other hand it can safely be taken that being a person reasonably acquainted with English language and well accustomed to write English, he has written Ex. M3 letter which has been received by the Respondent's office on 19.9.2005. The fact that Petitioner never complained against MW1 stating that he was made to write Ex. M3 letter by MW1 and that he was never intended to resign from his job is a fact to be well noted. Since, it is already held for the reasons given supra, that his contention that he got no comprehension of the contents of Ex. M3 letter is not acceptable.

15. In view of the fore gone discussion of the material on record it can safely be held that the impugned order dated 7.11.2005 under which the resignation tendered by the Petitioner has been accepted by the employer can not be taken as suffering from any illegality or unreasonableness and therefore it does not warrant any interference.

This point is answered accordingly.

16. Point No. II

In view of the finding given in point No. I, Petitioner's services were not terminated by the Respondents on the other hand he himself voluntarily submitted his resignation which has been accepted by the Respondents by virtue of Ex. M12 order. Therefore, the question of Petitioner's reinstatement into service does not arise and thus, he is not entitled for any such relief.

17. Admittedly, Petitioner has worked only for 11 months. As per Ex. M7 and M8 for regularization of services of substitute bungalow peons 3 years continuous service is mandatory. Thus, Petitioner can not seek for regularization of service.

18. As to the reliefs of back wages are concerned admittedly Petitioner has been paid remuneration for the period of his work. As already observed above he is not entitled for reinstatement into service. Therefore the question of payment of any back wages does not arise.

19. But a perusal of Ex. M8 which contains the policy of South Central Railway on the subject of engagement of bungalow peons indicates that in cases of loyal bungalow peons whose services have been terminated after 26.5.2003 for reasons other than unauthorised absence, indiscipline, misbehaviour, unsatisfactory work etc., and who have completed 120 days of work, and thus became entitled for temporary status can be reviewed and they can be taken and posting orders be given against Group D vacancies. Petitioner has worked evidently to the satisfaction of his employer while he was in service. This can be said so since his services were never terminated for any misbehaviour or misconduct on the part of the Petitioner. On the other hand even as per contention of the Respondents, due to personal exigencies Petitioner tender resignation and thus, he ceased to be their employee. Thus, he was a loyal bungalow peon. When it is the policy of the South Central Railway to consider and absorb such persons who are not guilty of unauthorised absence, indiscipline, misbehaviour, unsatisfactory work etc. but who ceased to be their employees for other reasons, against Group D vacancies as per Ex. M8, the question arises as to why the case of the Petitioner can not be considered under this policy. None can say that he can not be considered as his services were to the satisfaction of the employer while he was under the employment of South Central Railway. Only and due to personal exigencies he could not continue in their employment and now he is seeking for considering him for continuing in their service. Therefore Respondents are to be directed to consider the case of the Petitioner as per their policy as specified in Ex. M8.

This point is answered accordingly.

20. Point No. III

Result:

In the result Petition is answered as follows:

The impugned order dated 7.11.2005 is neither illegal nor void and it is not liable to be interfered with. Thus, Petitioner is entitled for neither reinstatement nor regularization into service. He is not entitled for any back wages either. The Respondent is directed to consider the case of the Petitioner within one month from the receipt of this award in the light of policy of South Central Railway incorporated in Ex. M8 *i.e.*, the proceeding No. P(R)564/

BP/II dated 18.10.2004 issued by the Chief Personnel Officer, SC Railway.

Award passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant corrected by me on this the 27th day of December, 2013.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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WW1: Sri Avidi Pallaya	MW1: Sri Raju Kancherla
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Documents marked for the Petitioner

Ex.W1: Photostat copy of appointment order dt. 11.11.2004

Ex.W2: Photostat copy of representation f WW1 dt. 6..8.2007 to the Respondent

Ex.W3: Photostat copy of Ir. No. AAD/R.95/Vol. IX dt. 12.9.2008—reply to Ex. W2

Documents marked for the Respondent

Ex.M1: Photostat copy of SSC certificate of WW1

Ex.M2: Photostate copy of intermediate certificate of WW1

Ex.M3: Photostate copy of resignation letter of WW1 dt. 19.9.2005

Ex.M4: Photostate copy of application of Petitioner dt. 25.8.2008

Ex.M5: Photostate copy of Ir. of acceptance of resignation of WW1 dt. 14.10.2005

Ex.M6: Phtotostate copy of Ir. Dt. 8.12.2009 of Respondent

Ex.M7: Phtotostate copy of office order No. 228/2004

Ex.M8: Photostate copy of circular on policy reg. engagement of bungalow peon dt. 18.10.2004

Ex.M9: Photostate copy of National Trade Certification of the Petitioner dt. 6.12.1993

Ex.M10: Photostate copy of Transfer certificate of Petitioner

Ex.M11: Phtotostate copy of Particulars of pay and allowances of Petitioner

Ex.M12: Phtotostate copy of office order No. 223/05 acceptance of resignation letter of Petitioner by Sr. AFA/G.F.A & CAO/SC dt. 7.11.2005.

नई दिल्ली, 21 फरवरी, 2014

का०आ० 896.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एन एफ रेलवे प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण गुवाहाटी के

पंचाट (संदर्भ संख्या 02/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/02/2014 को प्राप्त हुआ था।

[सं० एल-41011/122/2010-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 21st February, 2014

S.O. 896.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.2/2011) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Guwahati as shown in the Annexure, in the industrial dispute between the management of N.F. Railway and their workmen, received by the Central Government on 21/02/2014

[No.L-41011/122/2010—IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, GUWAHATI, ASSAM

Present:

Shri L.C. Dey, M.A., LL.B., Presiding Officer,
CGIT-cum-Labour Court, Guwahati.

Ref. Case No. 02 of 2011

In the matter of an Industrial Dispute between:
The management of N.F. Railway, Maligaon, Guwahati.

-Vrs-

Their Workman Sri K.C. Kalita.

APPEARANCES

For the Workman :	Mr. H. Rahman, Advocate. Mr. I. Ahmed, Advocate.
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For the Management. :	Mr. K.C. Sarma, Advocate.
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Date of Award: 31.01.14.

AWARD

1. This Reference was initiated on an Industrial Dispute raised by the workman Sri K.C. Kalita, which was referred by the Ministry of Labour, Government of India, New Delhi *vide* their order No. L-41011/122/2010-IR(B-I) dated 13.01.2011. The Schedule of this Reference is as under.

SCHEDULE

"whether the action of the Management of N.F. Railway in transferring the post K.C. Kalita, S.E. (C & W) to a non-sanctioned post & imposition of punishment to carry out a wrongful office order is proper and justified? To what relief the workman is entitled?"

2. On receipt of the order of Reference, this Reference case was registered and notices were issued upon all concerned. Accordingly both the management and the workman appeared and contested the proceeding by filing

their respective claim statement/written statement.

3. The case of the workman, in short, as it appears from the record, is that the workman was working as Section Engineer (SE) (C & W), Rangiya Railway Station and he was transferred from Rangiya to Murkac Challeng on 24.12.2007 in the pay scale of Rs. 6,500/- to Rs. 10,500/- but on that date there was no working post as Section Engineer in the pay Scale of Rs. 6,500/- to Rs. 10,500/- at Murkac Challeng. But the said post was shown to have been transferred to Murkac Challeng by Additional Divisional Railway Manager (ADRM), N.F. Railway, who has no power to transfer or vary the post from one station to another and from one scale to another scale. In the mean time the name of the workman was struck off from the Attendance Register of Rangiya Office with effect from 10.7.2008 thereafter the workman was issued memorandum of charges on 29.10.2007 and punishment was imposed on the workman on 24.8.2009. The findings of the enquiry was 9.10.2008 and the forwarding letter of the said findings was sent on 19.5.2008 and as such, when the forwarding letter was signed *i.e.* on 19.5.2008 there was no findings on the enquiry report and the findings of the enquiry report was presumed to have been dictated by the higher authority influencing the Enquiry Officer. Thus the action of the management is illegal, *malafide* and the punishment imposed upon the workman is illegal. Thereafter the management of N.F. Railway filed an FIR dated 23.7.09 bearing No. Misc/C&W/RNY/31/09 to the O/C, GRPF and RPF, N.F. Railway wherein it was alleged that the workman created inconvenience and trouble to be working staff by shouting loudly rebuking officials and staff during the office hours, and thereby restricting the workman from entering the office premises. After striking the name of the workman from the Attendance Register the salary slip of the workman had been issued from the office from August, 2008 till February, 2013 showing zero payment and as such, the workman has not been paid his salary since then. Thereafter the workman by his letter dated 15.7.2008 addressed to the Sr. DME, Rangiya informed that he could not sign the Attendance Register as his name was struck off from the Attendance Register of Rangiya Railway Station with effect from 10.7.2008 but no action taken on this and as such, the issue of non-payment of salary for no fault of the workman and by illegal removal of the name from the Register of the workman is not proper and legal. Thus the punishment imposed by the Management on the workman is illegal.

4. The Management, in their W.S. pleaded that the present reference is not maintainable in law as well as in form and hence, it is liable to be dismissed. The Management stated that the penalty of reduction of lower grade imposed upon the workman by adopting proper procedure of Discipline and Appeal Rule, 1968 and that in course of enquiry under Discipline and Appeal Rule the workman admitted that he did not attend the Mock drill for which the Enquiry Officer did not feel necessity to issue summon for examination of the witness Sri Laskar Boro to

substantiate the charge framed against the workman. Further the workman also did not take any step for summoning Mr. Laskar Boro as witness if so desires. It is also stated by the Management in their W.S. that the workman was transferred from Rangiya to Murkac Challeng for a period of one year against temporary varied post on administrative ground and the variation can be made with the authority of Senior Administrative Grade Officer and the said post was varied with the approval of the competent authority *viz.* ADRM, Rangiya. It is also mentioned that the date of forwarding letter of the enquiry is 9.5.2008 but due to oversight the enquiry Officer has put the date is 19.10.2008 on the findings.

Further case of the Management is that the workman was transferred from Rangiya to Murkac Challeng for a period of one year against temporary varied post on administrative ground for better accomplishment of work there *vide* DRM(P)/Rangiya's office order No. E/283/RM/Pt. I dated 24.12.2007 as per SOP February, 2007, 2008 (non-gazetted matters) section-B item No. 5.2 with the approval of ADRM, Rangiya. The workman requested to differ his sparing for his home needs but he was advised by the then Sr. Divisional Mechanical Engineer, Rangiya orally to proceed to Murkac Challeng in a later date and accordingly the workman was spared from Rangiya *vide* SSE (C&W), Rangiya's letter No. 2 EL/RN/08 dated 26.06.2008 but he refused to receive the sparing letter. Thereafter the workman was offered another sparing letter *vide* No. M/RNY/EST/Transfer & Posting dated 09.07.2008 and at that time also the workman refused to accept the same inspite counseling him to receive the sparing letter, rather disobeyed the order of HOD of Mechanical Department. The Management added that whenever a staff is ordered to be transferred from one station to another his name is struck off from the former station and taken to the roll of station where the staff has been transferred and accordingly his name was struck off from the roll of Senior Section Engineer (C&W), Rangiya with effect from 10.7.2008. Non receipt of official communication is a severe offence which is liable for facing Discipline and Appeal Rule action but the workman was not taken up under Disciplinary Appeal Rule action immediately. However, the workman was taken up under Discipline and Appeal Rule against by issuing SF-5 only after reported by personal branch, Rangiya regarding absenting from duty *vide* letter No. 2-K/M dated 03.06.2009, to which the workman submitted his defence statement on 16.9.2009. After getting the defence statement the Disciplinary authority decided to conduct a Discipline and Appeal Rule enquiry into the case by appointing the then ADME, Rangiya as Enquiry Officer and the enquiry was fixed on 10.7.2009 but the enquiry could not be conducted as the Enquiry Officer was pre-occupied on that day and hence the enquiry was postponed to 23.7.09 with intimation to the workman. On 23.7.09 the workman submitted on medical certificate for his illness and did not attend the enquiry. Thereafter the workman submitted fitness certificate on 02.08.2009 which was issued by the Medical and Health Officer, Rangiya with an application requesting

to issue letter to Railway Doctor and to examine and issue a fitness certificate. The next date of enquiry was fixed on 28.08.2009 and on that day the workman attended the chamber of Enquiry Officer and when he was asked whether he was ready to proceed with the enquiry the workman submitted an application for adjournment on the enquiry till fulfillment of his requirement as mentioned in his application and left the chamber of Enquiry Officer. Then the Enquiry Officer on perusal of the application submitted by the workman, found that there was no relevancy of the documents as mentioned in the said application with the enquiry. In this way the workman was showing non-cooperative attitude with the enquiry and playing the roll to prolong the conduct of the enquiry. While the DRM, Ranigya was pressing hard to finalise the case quickly. Thus the Enquiry Officer conducted the enquiry *ex-parte* against the workman on 28.8.2009 and accordingly the Enquiry Officer on completion of enquiry submitted its report and findings which was sent to the workman vide letter No. Sr. Divisional Mechanical Engineer, Ranigya (DA)'s L/LO. M/RNY/EST/SF-5/51 dated 26-10-09. The workman instead of submitted final representation submitted an application stating the enquiry conducted by the Enquiry Officer as biased. then the Sr. DME, Ranigya, on the basis of the relevant document and report of the Enquiry Officer, finalized the case converting the major memorandum to minor and imposed the penalty of stoppage of two sets of privilege Pass.

Further contention of the Management is that on 28.10.07 a mock drill was conducted by safety department by blowing siren/hooter to check the readiness/promptness of the staff assigned to BD Van/ARME/RNY but the workman being In-charge of the BD Van/ARME/RNY failed to report his duty place after blowing siren/hooter. Hence, the workman was taken under Discipline and Appeal Rule action by issuing SF-5 for his negligence towards duty by not attending duty on emergency call of BD Van/ARME/RNY. It is also pointed out that due to oversight the date of Mock drill was written in Article of both Annexure-I&II of the SF-5 issued to the workman as 23.10.07 instead of 28.10.07 and the same was informed to him by issuing a corrigendum bearing No. M/RNY/Operation/DAR dated 14.01.08. Accordingly the workman submitted his defence statement on 14.11.07 and after getting the same the Disciplinary Authority the then Sr. DEM, Ranigya decided to conduct a Discipline and Appeal Rule (in short DAR) enquiry into the case by appointing the then ADME/RPAN as Enquiry Officer *vide* SF-7 bearing No. M/RNY/Operation/DAR Dated 6.12.07. On completion of enquiry the Disciplinary Authority imposed the penalty of down gradation of JE-II/C & E in the pay scale Rs. 5000/- to Rs. 8,000/- from existing grade of SE/C & E and pay is fixed at Rs. 5000/- (Vth CPC for years from immediate effect and on completion of five years he would be restored to his existing grade *i.e.* SE(C&W). On receipt of the NIP the workman submitted an appeal to the Appellate Authority *i.e.* ADRM, Ranigya on 16.9.09 but the appeal was rejected by the Appellate Authority. Thereafter the workman submitted a

Revision Petition to CME, Maligaon requesting the review his penalty. The CME, Maligaon on receipt of the revision petition filed by the workman asked the working performance of the workman after imposing of penalty and accordingly the same was sent to CME, Maligaon. The speaking order passed by the CME, Maligaon was conveyed to the workman *vide* DME/RNY's letter dated 05.02.2010 but the workman has not obeyed the order of the CME, Maligaon yet. The management further stated that in Railway system all the posts both revenue charged posts and work charged posts are sanctioned posts and the workman was transferred from Rangiya to Markac Chellang purely on administrative ground only for one year. Such transfer order issued by the Management against the workman is not the illegal one and hence, the workman is not entitled to any relief as he has been absenting from duty with effect from 10.7.08.

5. In order to prove his case the workman examined three witnesses including himself while the Management examined one witness namely Sri Ritu Das, Assistant Personnel Officer, Rangiya Division, N.F. Railway. Both the sides have proved the documents relied upon them. Let me discuss the evidence of both the sides at first.

6. The workman Sri K.C. Kalita (W.W.1) in his evidence mentioned that he was working as Sectional Engineer (C & W), Rangiya and a memorandum of charge was issued against him on 29.10.07 *vide* Exhibit-1 but the allegation levelled against the workman was not proved during the course of enquiry as no witness was examined by the Disciplinary Authority and the procedure of Discipline and Appeal Rule was not followed thereby, moreover, penalty was imposed upon him violating the Rules and Procedure as prescribed in Rule 9 of Disciplinary Rule. He also stated that he was transferred from Rangiya to Markac chellang in the scale of Rs. 6500/- to 10,500/- on 24.12.2007 but on that there was no working post of SE (C & W) in the scale of pay of Rs. 6,500/- to 10,500/- at Markac chellang; and the said post was shown to have been transferred to Markac chellang by the ADRM who is not the authority to transfer or vary the post from one station to another or from one scale to another scale. In this regard the workman has proved the (certified copy) of book of sanction as on 01.04.07 wherein the position of the Post at Markac chellang is shown at Exhibit-2(1) wherein there is no mention of the post of the Section Engineer at Markac chellang. He has also proved the delegation of power *vide* Exhibit-3 and the extent of the power in respect of the power of Assistant Divisional Railway Manager at page 9, Ch-4, Section-B non gazetted matter in the schedule of power marked as Exhibit-3(1). The workman mentioned that he was communicated about the findings of the enquiry report dated 9.10.98 but the signature on the forwarding letter was done on 19.5.08 and as such, on 19.5.08 there was no findings on the enquiry and hence, it is clear that the action of the Management transferring the workman from Rangiya

to Markac chellang and reversion (Reduction to lower stage) are illegal and the punishment is liable to be set aside. He has also proved a memorandum bearing No. 2EL/RNY/08 dated 10.7.08 issued by the Senior Section Engineer (C & W), Rangiya regarding striking of his name from the Attendance Register with effect from 10.7.08 *vide* Exhibit-4 whereupon Exhibit-4(1) is the signature of the then Section Engineer (C&W), Rangiya. In course of his cross-examination the workman mentioned that in his claim statement he has not mentioned specifically the circumstances under which the charge sheet was framed and enquiry was held against him, and that the allegations levelled against him by the Management in their W.S. have not been denied in the Additional W.S. He also mentioned that he attended the departmental proceeding started against him and Luskar Boro was his Senior Supervising Officer who reported against him that he did not attend the mock drill which was made known to him from the memorandum of charge sheet; but said Luskar Boro was not called by the Enquiry Officer as witness nor did he proposed to call said Luskar Boro as witness to the said enquiry. He admitted that due to his absence in the mock drill conducted by the Management the enquiry was initiated against him and the penalty as mentioned in his W.S. has been imposed against him. He denied the suggestion tendered by the Management that he did not cooperate with the Management incourse of proceeding and that due to his fault *i.e.* for not attending the mock drill he was punished for which he did not mention the above fact in his W.S. The workman witness No. 1 mentioned that the mock drill was arranged in connection with the accident in order to test the alertness and sincerity of the employees of concerning department relating to the nature of accident. He also admitted that he did not join the Murkac chellang where he was transfered by the Management and due to his refusal to join at Murkac Chellang the Management struck off his name from the Attendance Register and stopped his salary and also prohibited him from entering into office of the C&W, Rangiya. He also denied the suggestion that the Management have taken the action against him rightly due to his default in attending the mock drill on 28.10.2007 and that the action of the Management was taken illegally.

At the instance of the workman witness No. 2, Sri Pradip Kumar Taludkar Inspector of Police, O/C, GRPF, Rangiya Railway Station and W.W.3, Ranjit Kumar Bezbaruah, Inspector RPF, Rangiya Railway Station were summoned to the Court to appear along with the documents/records, if any in connection with the GD Entry/FIR/Memo filed by the Management of Rangiya Railway Station Authority for restraining the workman from entering into the office of C & W, Rangiya Railway Station and both the witnesses have categorically mentioned that they have made thorough search and inspected the records such as Register of Receipts, maintenance files, etc. but found no entry in those Register regarding any memo/FIR submitted by the Senior

Section Engineer (C & W), N.F. Railway, Rangiya Railway Station against the workman.

7. The Management witness No. 1, Sri Ritu Raj Das, Assistant Personnel Officer, Rangiya Division in his evidence mentioned that in the year 2007 the workman was working as Section Engineer under Rangiya Division and he was posted at Rangiya Station; and that on 28.10.07 at 9.28 P.M. mock drill of Railway was arranged by the authority of Rangiya Station in the pretext of accident of Train No. 5813 UP. As per procedure once such siren blown all the brake down staff (staff related to brake down) and other staff are to report to Accident Relief Medical Equipment Van (ARMEV) but the workman did not attend the mock drill and due to default of the workman the charge sheet was issued by the Senior Divisional Mechanical Engineer, Rangiya on 29.10.07 *vide* Exhibit-A. On receipt of the charge sheet the workman submitted his reply on 14.11.07 that no mock drill was held on 23.10.07. Then the Railway Authority issued a corrigendum correcting the date of mock drill held on 28.10.07 *vide* Exhibit-C whereupon Exhibit-C(1) and C(2) are the signatures of the then Senior Divisional Mechanical Engineer, Rangiya. Thereafter a departmental proceeding was initiated against the workman *vide* memo No. M/RNY/Operation/DAR dated 5.12.07 appointing Mr. Bhuben Nath as Enquiry Officer *vide* Exhibit-D, and a copy of the said order was furnished to the workman. In the mean time the Enquiry Officer was transferred for which Mr. P.K. Hira, Additional Divisional Mechanical Engineer, Rangiya was appointed as Enquiry Officer and accordingly the notice dated 27.12.07 was issued upon the workman asking him to appear before the Enquiry proceeding to be held on 4.1.08 and to take defence *vide* Exhibit-E. On 4.1.08 the enquiry proceeding was held and it was concluded on the same day. In the said proceeding the workman was present and the copy of the proceeding of the departmental proceeding was forwarded to the workman who acknowledged receipt of the same putting his signature. He has proved the proceeding of departmental proceeding *vide* Exhibit-F and the signatures of the workman acknowledging receipt of the copy of the same *vide* Exhibit-F(1). He also said that subsequently on 3.4.08 the proceeding was held in which the workman was present and copy of the proceeding marked as Exhibit-G was furnished to the workman who acknowledged receipt of the same *vide* Exhibit-G(1). The Management witness further stated that on completion of the the enquiry the enquiry Officer submitted his findings with observation that charges framed agaist the workman had been established *vide* Exhibit-H. The witness concerned has also mentioned that prior to initiation of the departmental proceeding the workman was transferred from Rangiya to Murkac Chellang on administrative ground on 24.12.07 *vide* Exhibit-I. It is further mentioned that on receipt of the report and findings of the Enquiry Officer, Appropriate Authority accepted the said report submitted its report along with the proposed punishment against the workman *vide* Exhibit-J. Thereafter the workman submitted an appeal before the Highest Authority *i.e.* CME/Maligaon *vide*

Exhibit-K and on receipt of the appeal as per order of the Chief Mechanical, Engineer Maligaon, APO (I), Rangiya *vide* his letter No. E/283/RN/Pt. 1 dated 16.2.10 asked the workman to join at Murkac Chellang and then after improving his performance he should appeal *vide* Exhibit-L. The Management witness No. 1 mentioned that the workman was transferred to Murkac Chellang on administrative ground before imposing punishment and the departmental proceeding as well as the punishment imposed against the workman and the transfer of the workman have no relation with each other. The workman did not comply with the order of transfer issued by the Railway and due to his absence from duty the name of the workman was struck off from the Roll maintained by Senior Sectional Engineer, Rangiya on 10.7.08. The Management witness also said that due to disobedience of the workman to comply with the transfer order and absence from duty another charge sheet was issued by the Sr. DME, Rangiya *vide* Exhibit-M and on receipt of the same the workman submitted his reply *vide* Exhibit-N; and on being dissatisfied another departmental proceeding was initiated against the workman appointing the Enquiry Officer, Mr. M. Chakrabarty, ADME, Rangiya *vide* Exhibit-O and investigation was issued upon the workman *vide* Exhibit-Q whereupon Exhibit-Q(1) is the signature of the workman acknowledging the receipt of the same. Accordingly enquiry was held on 28.08.09 but the workman was absent on that date for which the Enquiry Officer proceeded ex-parte against the workman and passed an ex-parte order on the same day holding that the charge against the workman has been proved beyond doubt *vide* Exhibit-R whereupon Exhibit-R(1) is the findings of the enquiry officer; and on receipt of the report along with the findings of the Enquiry Office, the Appropriate Authority viz. Sr. DME, Rangiya, Mr. G. Talukdar has imposed punishment against the workman stopping of two sets of privilege pass *vide* Exhibit-S.

In course of his cross-examination he stated that the statements made in the W.S filed by his predecessor Mr. Narayan Chandra Saha, the then APO are true and correct. He also mentioned that Sri Luskar Boro who was the complainant against the workman was not called for in the enquiry proceeding and the enquiry proceeding regarding absence of the workman was conducted ex-parte. He clarified the word "administrative ground" including the administrative convenience, administrative interest and it is for the benefits of the Administration. He said that there were departmental complaints against the workman and in the enquiry conducted against the workman for not attending mock drill the penalty of reduction in the lower grade was imposed; and as per the enquiry held against the workman due to refusal to carry out the transfer order issued by the Railway the name of the workman was struck off maintained by the Rangiya Railway station with effect from 10.7.08. He added that the disobedience to carry out the order of transfer by the workman the enquiry was

initiated under Railway Discipline and Appeal Rule. The Management witness No. 1 again mentioned that on 10.7.09 enquiry was fixed and on that day the workman appeared but due to his failure to submit his name of the defence counsel as well as pre-occupation of the Enquiry Officer the enquiry was postponed on that day and fixed on 23.07.09 but on that day the workman was absent due to his illness thereafter another date was fixed on 28.08.09 and on that date the workman was present and submitted application seeking some documents and other requirements such as subsistence allowance, passes, etc. He also said that the DRM, Rangiya was pressing hard for finalization of the case that is why the enquiry was conducted against the workman ex-parte and the name of the workman was struck off from the roll under the Rules of Railway Discipline and Appeal Rule but as per provision of Administrative policy. He added that after striking the name of the workman from the Roll he used to come of his working place and created problem as reported by the supervisor and hence they informed the matter to the GRP and RPF. He categorically mentioned that the workman was neither suspended nor dismissed till date. The workman was found absent at his place of transfer viz. namely Murkac chellang for which his pay was not given; and after informing the GRPF and RPF the workman came to his working place and drew his money from the Provident Fund. The Management witness No. 1 further said that the application for drawing provident fund amount by the workman was processed through Rangiya Railway Division, Personnel Branch and the application for the post of Senior Lecturer for training Institute of N.F. Railway submitted by the workman was forwarded by the Rangiya Railway Station through proper channel on 21.7.08 i.e. after striking of name of the workman from the roll on 10.7.08. It is also mentioned by the MW. 1 that in the said forwarding letter the workman was shown as Sectional Engineer (C & W), Rangiya, and the workman has been residing in Railway quarter at Rangiya till date. Beside that all the communication made to the workman both by sending special messenger and by registered post to his quarter. He also mentioned that he can not say under what provision of law/rule the salary of the workman was not paid with effect from 10.7.08.

8. I have heard argument from both the sides at length.

Mr. K.C. Sarma, learned Advocate for the Management submitted that the workman Sri K.C. Kalita was transferred after variation of the post from Rangiya to Murkac chellang for a period of one year against the temporary varied post on administrative ground with the approval of competent authority viz. ADRM, Rangiya as per the provisions of the Schedule of power of Railway Organisation, but the workman did not comply with the order of the Management. He also mentioned that the workman requested to differ his sparing for his family necessity, while Sr. DME, Rangiya orally advised the workman to proceed to Murkac Chellang on a later date

and the workman was spared from Rangiya *vide* letter dated 26.06.08, while the workman refused to receive the sparing letter; and thereafter Sri Kalita was again offered by the sparing letter by the ADME, Rangiya and at that time Sri Kalita refused to accept the same in spite of counseling him in this respect. Thereafter as per the procedure the name of the workman Sri Kalita was struck off from the roll of the Rangiya, Railway Station and taken to the roll of the Station where he was transferred. Mr. Sharma, Learned Advocate added that initially no action was taken by the Management under Discipline Appeal Rule of Railway and subsequently on report by the Personal Branch, Rangiya regarding absenting from duty the action under DAR. Started and after submission of defence statement by the workman the Disciplinary authority decided to conduct departmental enquiry into the case by appointing ADME, Rangiya as Enquiry Officer who fixed the date on 10.7.09 informing the workman to submit the name of his defence counsel. But the workman failed to submit the name of his defence counsel although he attended the enquiry proceeding on 10.07.09. But the enquiry could not be conducted due to other pre-occupation of the Enquiry Officer who refixed the date on 23.07.09 with intimation to the workman. Due to non-cooperative attitude of the workman the enquiry was conducted ex-parte against the workman and on the basis of the findings of the Enquiry Officer along with the enquiry proceeding and the relevant documents the Disciplinary Authority imposed the penalty of stoppage of 2 sets of privilege pass.

Mr. Sarma, Learned Advocate further submitted that another departmental enquiry was initiated against the workman under Discipline and Appeal Rule on the charge of failure of the workman to report to him duty place on 28.10.07 for attending the mock drill and after completion of the said enquiry the Disciplinary Authority imposed the penalty down grading the workman to JE-II (C&W) in the pay scale of Rs. 5,000/- to Rs. 8000/- from existing grade of SE/C&W fixing the pay at 5,000/- for 5 years from immediate effect. While the workman submitted an appeal which was rejected by the appellate authority. Then the workman submitted a petition for revision before the Chief Mechanical Engineer, Maligaon requesting for reviewing the penalty while the CME, Maligaon asking the working performance of the workman after imposition of the penalty, but the workman did not obey the order of the CME, Maligaon. Hence, Mr. Sarma pleaded that the workman was transferred from Rangiya to Murkac Chellang on administrative ground and the workman had been found disobeying and violating the Rules and procedure of the Discipline and Appeal as such, there is no irregularity and illegality in transferring the workman from Rangiya to Murkac Chellang hence Mr. Sarma also plodded that the Management instead of taking serious view imposed minor punishment on the workman leniently giving him an opportunity to rectify but the workman did not do so. Hence, Mr. Sarma submitted

that the domestic enquiries against the workman were held as per the provision of DAR without any violation of natural justice and as such the workman is not entitled to any relief as claimed.

9. Mr. Rahman, Learned Advocate for the workman, on the other hand, submitted that as there was no post of SE (C&W) at Murkac chellang Railway Station the workman did not join there and submitted an appeal before the appropriate authority; and as the ADRM has no power to vary/change the post and create and as there is no mention of the post of the workman in the Book of Sanction (Exhibit-2) the alleged order of transfer issued to the workman *vide* office order No. DRM(P)/RNY dated 24.12.07 is illegal, arbitrary which is liable to be set aside. Mr. Rahman, Learned Advocate for the workman again submitted that altogether two domestic enquiries were made by the Management against the workman, on the charges of absent of the workman from the mock drill and disobedience of the order of the appointing authority by refusing to carry out the order of transfer from Rangiya to Murkac Chellang. He added that the enquiries were made ex-parte without giving sufficient opportunities to the workman to defend his case; and the Management by filing FIR before the GRPF and RPF for restraining the workman to enter into his working place the workman could not join his service and as the names of the workman was struck off from the Roll of the Rangiya Railway Station resulting in depriving the workman to get his salary, the Management has done grave injustice to the workman. Mr. Rahman again pointed out that the workman is still holding the post of SE (C&W), Rangiya since neither he was suspended nor dismissed by legal procedure and since the petition submitted by the workman for the post of Lecturer in the Railway Training Institution and the advance from GPF was also granted and the amount was paid to the workman showing the workman as SE (C&W), Rangiya, the workman appears to remain as SE (C&W), Rangiya Railway Station. It is also submitted that the workman has been remaining in the railway quarter, Rangiya till date and as such, the workman appears to have continued to the post of SE (C&W), Rangiya. Thus Mr. Rahman contended that all the actions taken by the Management against the workman are illegal and hence, the workman is not bound to comply with the illegal order passed by the Management.

10. On careful scrutiny of the evidence on record along with the documents relied upon by both the parties and taking the account the submissions of the Learned Advocates it is found admitted that the workman K.C. Kalita was transferred from Rangiya to Murkac Chellang where there was no sanctioned post of SE (C&W) and due to non-compliance of the order of the Management the name of the workman was struck off from the Roll of Rangiya Railway Station resulting in non payment of salary of the workman. On scrutiny of the copy of Book of sanction

produced by the workman it appears that there was no sanctioned post of SE(C&W) at Murkac Challeng at the relevant time and the workman was transferred by the ADRM, Rangiya as per the Schedule of Power as it appears from the letter No. M/RNY/EST/Transfer and Posting dated 3.3.2011 submitted by the Senior Divisional Mechanical Engineer, N.F. Railway, Rangiya. From the Schedule of Powers (non establishment and establishment matter) dated 7th February, 2008 proved as Exhibit-3, it is found that in the said "Schedule Pt-B, Chapter-IV Establishment matter Section B.non-gazetted matter Item No. 18.1 marked as Exhibit-3(1) that the ADRMs have no power to transfer of Post and creates temporarily in respect of non gazetted staff from one station to another. Although it was pleaded that the workman was transferred purely on temporary basis for a period of one year on administrative ground varying the post of SE (C&W) from the Rangiya Railway Station to Murkac Chellang with the approval of the Appropriate Authority but no evidence adduced by the Management in support of their plea. As such, it can safely be held that the transfer order issued with the approval of ADRM, Rangiya varying the post of SE (C&W) to Murkac Chellang itself is found not as per Provisions of the Schedule of Powers of Railways. Hence, it can safely be held that the order of transfer issued by the ADRM, Rangiya transferring Sri K.C. Kalita, SE (C&W), Rangiya is not proper and legal.

11. Due to non compliance of order of transfer by the workman the name of the workman has been struck off from the Roll of the Office of Senior Sectional Engineer (C&W), Rangiya and subsequently enquiry proceeding was initiated against the workman in connection with the Sr. DME, Rangiya vide Memo No. M/RNY/EST/SF-5/51 dated 4.6.09. Accordingly enquiry was held on 28.8.09 in the chamber of ADME, Rangiya on the allegation that the workman was ordered for transfer from Rangiya to Murkac chellang vide DRM(P), Rangiya's office bearing No. E/283/RM/Pt.-I dated 24.12.2007, but the workman has not carried the transfer order and absented himself from duty with effect from 10.7.2008 till date; and thereby the action of the workman constituted an offence tantamount to gross negligent in duty in contravention of Rule No. 3.1(II) and (III) of Railway Service Conduct Rules 1966. It appears from the enquiry report proved by the Management vide Exhibit-R that initially the enquiry was fixed on 10.7.09 and after summoning the charged officer to attend before the Enquiry Officer along with his defence counsel. Charged Officer (workman) appeared on 10.7.09 without his defence counsel but the enquiry could not be conducted on 10.7.09 due to other pre occupation of the Enquiry Officer and the enquiry was postponed on 23.7.09. On that date *i.e.* 23.7.09 the workman did not appear and accordingly the date of enquiry was again re-fixed on 28.8.09. The workman appeared before the Enquiry Officer on 28.8.09 and submitted an application for adjournment of the enquiry

fixing another date after fulfilment of his requirements as mentioned in his application while the Enquiry Officer on perusal of the application found the requirements not relevant with the enquiry and finding the workman maintaining non-cooperative attitude in connection with the enquiry, conducted the enquiry ex-parte against the workman. Accordingly the Enquiry Officer submitted his report along with the findings opining the charges framed against the workman are established. Subsequently the Disciplinary Authority on the basis of the enquiry report and the relevant documents imposed penalty as under:—

"His 2 (two) sets of privilege pass are stopped".

On perusal of the evidence in connection with the departmental enquiry held on 28.8.09 together with the enquiry report marked as Exhibit-R it is clear that the enquiry was held after rejecting the application of the workman for fulfillment of his requirements submitted by the workman, without giving any opportunity of hearing of the workman. There is also nothing on record to show that the enquiry proceeding along with the report of the Enquiry Officer have been furnished to the workman by the Disciplinary Authority before imposing punishment. In this connection I am inclined to reply upon the decision in *P. Karunakaran Vs-The Union of India* and Ors. reported in 2014 LAB I.C. 146 (Madras High Court) wherein it was laid down that without conducting enquiry and without affording opportunity of hearing to employee, the enquiry is violative of principle of natural justice, which is liable to be set aside. Accordingly the domestic enquiry held on 28.8.09 against the workman in violation of the Provision of Discipline and Appeal Rules as well as principle of natural justice and hence, the findings on the enquiry proceeding held on 28.8.09 is not valid and legal and as such, it is liable to be set aside.

12. From the above discussion it can safely be held that the order of transfer issued against the workman transferring him from Rangiya to Murkac Chellang varying the post of SE (C&W) to Murkac chellang and imposition of punishment by the Disciplinary authority due to non compliance of the said illegal order passed by the Management of ADRM, Rangiya is not proper and justified.

In course of hearing Learned Advocate for the workman pleaded that while the workman was working at Rangiya as SE (C&W) he was issued with a memorandum of charges on 29.10.07 on the allegation that he did not attend mock drill conducted by the Management and on the basis of the memorandum of charges enquiry was held ex-parte without calling any witnesses and penalty was imposed on the workman by the Management reducing the workman to lower grade; and as such, the finding of the Enquiry Officer and the punishment imposed by the Disciplinary Authority upon the workman is against the Discipline and Appeal Rule and the Provision of Constitution as well as the principle of natural justice. Hence, the Learned Advocate for the workman submitted that the punishment

imposed against the workman is liable to be set aside. The evidence of the Management witness No. 1 clearly shows that the enquiry held on the basis of the memorandum of charge dated 29.10.07 is in no way connected with the transfer of the workman and hence, this matter can not be taken up in this proceeding. The record shows that the transfer order was issued on 24.12.07 and the alleged act of negligence of duty in attending the mock drill by the workman took place on 23.10.07 upon which the enquiry was held on 3.1.08 and 4.1.08 and as such, the said enquiry has no relevancy with the transfer order as alleged. The Ministry has referred this dispute for adjudication of the issue,

"Whether the action of the Management of N.F. Railway in transferring the post of K.C. Kalita, S.E. (C&W) to a non-sanctioned post and imposition of punishment to carry out a wrongful office order is proper and justified?

It is the established principle that the Tribunal has got no jurisdiction to travel beyond the issue contained in the Schedule of Reference except otherwise provided by law. From the above discussion it has been made clear that this domestic enquiry held on 3.1.08 and 4.1.08 against the workman has no relevancy as it is in no way connected with the transfer of the workman and as such, this matter regarding the domestic enquiry held on 3.1.08 and 4.1.08 against the workman can not be considered at this stage.

13. The workman in his pleadings mentioned that due to non receipt of the salary the workman had been suffering and prayed for granting back wage. It is crystal clear that the workman has not been paid the salary with effect from the striking off the name of the workman from the Roll of the Sr. Sectional Engineer (C&W), Rangiya and hence, he is entitled to backwage. Considering the totality of the facts of this case and the conduct of the workman as it reveals from the pleadings as well as the evidence of both the sides, and having regard to the principle "no work, no pay", I find it difficult to saddle the burden of entire back wage upon the Management. The workman was transferred on administrative ground and he repeatedly refused to accept the sparing order issued by the Railway Authority. Even after filing of his appeal before the CME, Maligaon, consequent upon proving the charges framed against him in the enquiry held in connection with the negligence of duty of the workman in attending the mock drill on 28.10.07 the CME, Maligaon has passed the orders,

"in the light of report of Sr. DME, Rangiya his revision petition kept pending. He can join at Murkac chellang and then after improving his performance he should appeal."

For argument shake although the tranfer order issued by the Management against the workman is found to be illegal, the workman appears to have shown his disobedience to his employer which amounts to gross-misconduct. In this connection I would like to rely upon

the principles of law laid down in Hindustan Paper Corporation Limited and Another-VRs-Ranjit Kumar Deb and Another reported in 2014 LAB. I.C. 222 (Gauhati High Court) (Para-B) wherein it was held "Suffice it to say that the principle of 'no work, no pay' cannot entirely apply in this case inasmuch as the respondent was wrongfully removed from service as indicated earlier. Nevertheless, on considering the totality of the facts in this case and also of the difficulty being faced by the petitioner-Corporation, it will not be equitable to saddle them with the entire back wages either. Under the circumstances, by striking a balance between the interests of the Corporation and the Respondent No. 1, I decide to give back wages to the Respondent No. 1 only with effect from 20.12.2005 when the impugned award was passed by the Tribunal."

In view of my above discussion and taking into account the decision of the Hon'ble Gauhati High Court as mentioned above, I am of the opinion that the workman is entitled to 50% of his salary with effect from 10.7.08 i.e. the date of striking out of the name of the workman from the Attendance Roll of the Office of the Sr. Sectional Engineer (C&W), Rangiya, which I hope, will meet the ends of justice.

14. Accordingly it is held that the order issued by the Management of N.F. Railway transferring the workman from Rangiya to Murkac challeng varying the post of SE (C&W) at Murkac challeng is wrongful and illegal and hence, the action of the Management of N.F. Railway in transferring the post of K.C. Kalita, SE (C&W), Rangiya to a non-sanctioned post and imposition of punishment ot carry out a wrongful office order is not proper and justified; and the workman is entitled to 50% of his gross pay with effect from the date of his striking off his name from the Roll of the Office of the Sr. Sectional Engineer (C&W), Rangiya till his re-instatement.

This Reference is disposed of on contest.

No cost is awarded.

15. Send the Award to the Government as per law.

Given under my hand and seal of this Court on this 31st day of January, 2014 at Guwahati.

L.C. DEY, Presiding Officer

नई दिल्ली, 21 फरवरी, 2014

का०आ० 897.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मुंबई पोर्ट ट्रस्ट के प्रबंधतंत्र के संबंध निर्योजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुंबई के पंचाट (के० स० औ० अ०-2/11/2010) प्रकाशित करती हैं जो केन्द्रीय सरकार को 21-02-2014 को प्राप्त हुआ था।

[सं० एल-31011/6/2009-आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 21st February, 2014

S.O. 897.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/2010) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, Mumbai as shown in the Annexure in the Industrial dispute between the management of Mumbai Port Trust and their workmen, which was received by the Central Government on 21-2-2014.

[No. L-31011/6//2009-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, MUMBAI

PRESENT:

K.B. KATAKE, Presiding Officer

REFERENCE NO. CGIT-2/11 of 2010

EMPLOYERS IN RELATION TO THE MANAGEMENT OF MUMBAI PORT TRUST

The Chairman
Mumbai Port Trust
CP & IRM's Office
Port Bhavan, S.V. Marg
Mumbai 400 001.

AND THEIR WORKMEN

The Secretary
Mumbai Port Trust Dock and General Employees' Union
Port Trust Kamgar Sadan
Nawab Tank Road, Mazgaon
Mumbai 400 010.

APPEARANCES:

For the employer Mr. Umesh Nabar,
Advocate.

For the workman Mr. J.H. Sawant,
Advocate.

Mumbai, dated the 1st November, 2013

AWARD

The Government of India, Ministry of Labour & Employment by its Order No. L-31011/6/2009-IR (B-II) dated 12.01.2010 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

"Whether the demand of the Mumbai Port Trust, Dock and General Employees Union that Shri V.S. Ingalikar's Jr. Assistant, Medical Department period

of suspension from 29.06.1996 to 28.09.2003 be treated as period spent on duty for all purposes and the workman shall be given all the consequential benefits is legal, justified and proper? What relief the workman is entitled to?"

2. After receipt of the reference, notices were issued to parties. In response to the notice, the Second party filed its statement of claim at Ex-7. According to the second party the workman V.S. Ingalikar is employee of first party serving as Jr. Assistant, Medical Department. He was suspended from service from 29/06/1996 as he was arrested by Police and was prosecuted in a criminal case. In the year 2003 Sessions Court acquitted the workman. Thereafter the first party reinstated him on 28/09/2003. Thereafter workman has applied for the wages and other benefits during the period of suspension as if he was on duty. The first party held that the acquittal of the second party was on the ground of benefit of doubt therefore they granted him only 80% of the pay and allowances for the period of suspension. Therefore the workman has raised the dispute before ALC (C), Mumbai. As conciliation failed, on report of ALC (C), the Ministry has sent the reference to this Tribunal. The Second party herein prays that the workman be awarded full pay and all consequential benefits during the period from 29/6/1996 to 28/9/2003 *i.e.* for the period of suspension form service as if he was on duty for all purposes and also prays for 18% interest and cost of the reference.

3. The first party resisted the statement of claim *vide* its written statement at Ex-8. According to them the workman was suspended as he was arrested by Police and remained in jail and he was prosecuted by Sessions Court in Criminal Case no. 1110/1996. Though he was acquitted it was not clear or honourable acquittal. On the other hand he was acquitted by giving benefit of doubt. Therefore on his application management has paid him 80% of his remuneration. He is not entitled to the full pay allowances and other benefits as claimed for. Therefore they pray that the reference be dismissed.

4. Following are the issues for my determination. I record my findings thereon for the reasons to follow:

Sr.No.	Issues	Findings
1.	Whether the period of suspension from 29/6/1996 to 28/9/2003 of Shri V.S. Ingalikar, Jr. Assistant Medical Department of Mumbai Port Trust can be treated as a period spent on duty for all purposes and whether the workman is entitled to all the consequential benefits?	No.
2.	Whether the workman is entitled to any relief?	No.
3.	What order?	As per final order.

REASONS**Issue no. 1&2:—**

5. In the case at hand facts are not disputed that the applicant was involved in a criminal case. He was arrested by Police on 29/06/1996 and he remained in custody upto 11/07/1997. Fact is also not disputed that the workman was accused in Sessions Court case no.1110/1996. As the workman was arrested by police and the remained in jail for more than two weeks, therefore as per rule the workman was put under suspension. The fact is also not disputed that the workman was involved in an offence outside the premises more particularly it was offence U/S 498 A, 306 r/w 34 IPC. Fact is also not dispute that the first party company had not taken any cognizance of the offence and the trial of the workman. They have neither issued any charge sheet not initiated domestic inquiry against the second party. Fact is also not disputed that after workman submitted the copy of order of acquittal passed by the Sessions Court, the first party immediately reinstated the workman in the services. The fact is also not disputed that workman applied for back wages and the management after considering the judgement of the Sessions court observed that it was not a clear acquittal. On the other hand benefit of doubt is given to the workman. Therefore instead of granting full back wages, and all other consequential benefits, management granted him 80% back wages.

6. Workman herein is claiming full back wages. In this respect the Id. adv. for the second party workman submitted that the workman was acquitted by the Sessions Court. Neither any charge sheet was issued to the workman nor any departmental inquiry was conducted against him. In the circumstances, the Id. adv. submitted that the workman is entitled to full back wages as he is acquitted by the Court of Sessions. In support of his argument Id. adv. resorted to Madras High Court ruling in State Bank of India V/s. Mohd. Abdul Rahim 2012 I CLR 899 wherein the Hon'ble Court observed that:

"Looking to the facts of the case particularly with reference to acquittal order of the Appellate Court, in the criminal case against him and in the background of no departmental proceedings held by the appellat management, the Court would not find any justification to deny full pay and allowances to the respondent workman for the period he was discharged from service till he was reinstated in service."

7. In this respect I would like to point out that the fact of the case at hand are quite different. In that case the workman therein was palced under suspension inspite of registration of case and he continued to work with the Bank till the date of conviction. On appeal against conviction, the sentence was suspended by the Appellate Court. Inspite of that management did not permit the workman to work. In the

circumstances the Hon'ble Court in para 9 of the judgement observed that:

"It was pointed out that inspite of the said suspension of sentence, the management however, did not permit the writ petitioner to work. Thus on acquittal by the criminal court, the petitioner was entitled to reinstatement of service as well as back wages payable to the writ petitioner."

8. In addition to that further I would like to point out that in that case the workman therein was not acquitted merely by giving benefit of doubt. On the other hand his acquittal in that case was honourable acquittal. On the point Hon'ble Court in para 13 of the judgement further observed that:

"...it was not just a case of acquittal by giving him the benefit of doubt but on the other hand going through the evidence, the appellate court pointed out that the allegations were merely an afterthought and were not true. Thus the acquittal is more in nature of honourable acquittal."

9. In short, in the above referred case there was fault on the part of the Management of the Bank who did not allow the workman to work though his conviction and sentence was suspended. Furthermore the acquittal in that case was honourable in nature. As compared to that in the case at hand, there was no fault on the part of the management herein. The workman remained in jail for more than 12/13 days. Therefore as per the rule he was palced under suspension. When order of acquittal was communicated to the management, immediately they reinstated the workman. Management herein has remained passive. They are not at fault. The workman was arrested and prosecuted by the Police Department on the complaint filed by the relative of the deceased. In the case at hand neither his acquittal is honourable nor first party has any concern with the criminal case. The trial court has given the benefit of doubt and acquitted the workman. Immediately thereafter with all fairness, first party reinstated the workman in the service. The first party could have initiated domestic inquiry against the workman. However they did not take any such action as the offence in which workman was arrested though was of serious nature, it has no concern with the company. In the circumstances, I found no fault on the part of the management and the management or the State Ex-chequer need not be burdened by paying full back wages to the workman who has not performed any work during the period of suspension. The management has no role and it was not at fault in suspending the workman. The fact of the above referred case is totally different. The management therein was at fault as they did not allow the workman to work even after his sentence was suspended. Furthermore the acquittal therein was of honourable natue. In the circumstances I hold that ratio laid down in the above case is not attracted to the set of facts of the present case

especially in the light of well settled principle of 'no work no-wages' laid down by Hon'ble Apex Court in A.K. Soumini Vs. State Bank of Travancore AIR 2003 SC 3137. In the case at hand the workman was arrested by Police and prosecuted on complaint of his relative. The first party has no role either in lodging the complaint or in prosecuting the workman. The first party has no concern with the arrest and prosecution of the workman. They acted in good faith and suspended him as per the rules. With all fairness the first party has also paid 80% subsistence allowance to the workman which is more than sufficient relief given by the first party. In the case at hand 'no work no pay', rule is squarely applicable. The first party or the state ex-chequer need not be burdened with no fault on their part. In this back drop, I answer these issues nos. 1 & 2 in the negative and proceed to pass the following order.

ORDER

The reference stands rejected with no order as to cost.

Date: 01.11.2013 K. B. KATAKE, Presiding Officer

नई दिल्ली, 21 फरवरी, 2014

का०आ० 898.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक आफ बड़ौदा के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण / श्रम न्यायालय चैन्नई के पंचाट (संदर्भ सं० 23/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 21/2/2014 को प्राप्त हुआ था।

[सं० एल-12012/79/2011-आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 21st February, 2014

S.O. 898.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 23/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial dispute between the management of Bank of Baroda and their workman, received by the Central Government on 21/2/2014/.

[No. L-12012/79/2011-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 28th October, 2013

PRESENT: K.P. PRASANNA KUMARI
Presiding Officer

Industrial Dispute No. 23/2012

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Bank of Baroda and their workman)

BETWEEN

Sri J. Tamil Selvam : 1st Party/Petitioner

AND

The General Manager : 2nd Party/Respondent
Bank of Baroda
Regional Office
82, Bank Road
Coimbatore-641018

APPEARANCE:

For the 1st Party/Petitioner: Sri S. Saravanan, G.B.
Saravanhavan,
Advocates

For the 2nd Party/Respondent: M/s T.S. Gopalan & Co.,
Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12012/79/2011-IR(B-II) dated 26.03.2012 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the management of Bank of Baroda in terminating the services of Sri. J. Tamil Selvam w.e.f. 01.09.2004 is legal and justified? What relief the workman concerned is entitled to?"

2. After receipt of the Industrial Dispute this Tribunal has numbered it as ID 23/2012 and issued notice to both sides.

3. The averments raised by the petitioner in the Claim Statement are these:

The petitioner has been working under the Respondent Bank. On 01.09.2004 the petitioner was orally directed to quit from the service of the Respondent. The petitioner has requested the Branch Manager and other higher officials to take him back into the service of the Bank. A covenant has been made during the meeting of the Trade Union of National Level and Bank Employees Federation regarding confirmation of temporary employees. On coming to know of this, the petitioner has again approached the Branch Manager to take back the petitioner into the service of the Bank. The B.M. has threatened the petitioner that the covenant is not applicable to him but is applicable only to those

temporary workers who are in service. On 26.05.2009 the petitioner has sent a letter to the Respondent requesting to revoke the oral termination. By reply dated 16.06.2009 the Respondent has informed that the request of the petitioner cannot be considered. The petitioner had approached the Assistant Labour Commissioner (Central) requesting to revoke the oral termination and reinstate the petitioner into service with backwages and other benefits. The termination of the petitioner is against law and is against natural justice. Though conciliation was held before the Labour Commissioner, the Respondent was not willing to accede to the request of the petitioner to reinstate him. The petitioner is entitled for reinstatement in the service of the Respondent with backwages and other benefits.

4. The Respondent has filed counter Statement contending as follows:

The petitioner was engaged as casual workman on daily wages in Nabiyur, Kadathur and Erode branches of the Respondent Bank between 1990 and 2004 on temporary ad-hoc basis for passing contingencies of work, whenever the regular staff were on leave. Though was making representation for absorption and regularization, it was not considered as the practice was to recruit candidates from among those sponsored by Employment Exchange. The petitioner stopped coming for work after 17.09.2004. He seems to have obtained job as Supervisor in a Poultry Farm after this. After cessation of the employment of the petitioner in 2004 the employees federation of the Respondent bank have raised and Industrial Dispute over the issue of absorption of casual workmen. A settlement was arrived at providing for regularization and absorption of temporary and casual employees who are still working under the Bank. Since the petitioner was not in service, he does not qualify for absorption as per the terms of the settlement. The petitioner is not entitled to any relief.

5. The evidence in the case consists of oral evidence of WW1 and MW1 and exhibits marked as Ex.W1 to Ex.W23 and Ex.M1 to Ex.M4.

6. The points for consideration are:

- (i) Whether the termination of the services of the petitioner by the Respondent is legal and justified?
- (ii) What is the relief, if any to which the petitioner is entitled?

The points

7. The petitioner has claimed in his Claim Statement that he was an employee of the Respondent Bank and was orally terminated from service on 01.09.2004 without any

justification. The nature of employment of the petitioner is neither specified nor is clear from the Claim Statement. However, it is seen from the Counter Statement filed by the Respondent that he was casually employed by the Bank as a Peon and he had worked in Nambiyur, Kadathur and Erode branches of the Bank. According to the Respondent the petitioner had stopped coming to the bank voluntarily from 17.09.2004 and had gone in search of greener pastures. It is stated by the Respondent that the petitioner had got job as Supervisor in a poultry farm which was giving him better emoluments and this is why he stopped coming to the Bank.

8. The question to be answered is whether the petitioner is entitled to reinstatement in service or any other relief in the circumstances narrated by him and established in evidence. During his cross-examination the petitioner has stated that he had last worked in Erode branch of the Respondent Bank and that was on 17.09.2004. This itself would show that his claim in his Claim Statement that he was orally terminated on 01.09.2004 is not correct. He also admitted during his cross-examination that he was working for the last two years with a Poultry farm. The Respondent has also produced a document showing that the petitioner is now working in the Poultry farm and that he is a permanent worker there. This document is marked as Ex.M2. However, this would not show that the petitioner has started working for the poultry farm immediately after he had quit the services of the Respondent Bank.

9. Again, the case of the Respondent in the Counter Statement that the petitioner had stopped coming to work on his own is proved false by the very admission made by MW1 in the Proof Affidavit. What is stated in the Proof Affidavit is that in September 2004 there was a general direction that at a time no branch should have more than one Peon unless express permission was given and therefore the Respondent Bank has stopped engaging the petitioner from 17.09.2004 while other worker of similar status was retained. What is stated in the Proof Affidavit is that the Respondent had reason to believe that the petitioner had another source of income by way of engagement in a poultry farm and this was why the bank had stopped engaging him.

10. It could be seen from the various documents produced by the petitioner that the Managers of the branch where the petitioner had been working had been certifying his conduct to be good and recommending him to be included in the waitlist of casual workers for the purpose of absorption. Ex.W1 is one such certificate given by a Branch Manager. Ex.W6 and Ex.W7 are also similar certificates. By Ex.W8 the concerned Branch Manager has written to the Regional Manager to ask whether the name of the petitioner shall be included in the waitlist. In Ex.W9 one Branch Manager has written that the petitioner has already completed more than 90 days in the Bank in order to ascertain if wages is payable to him a Sundays also.

11. The case of the Respondent is that in no year in which the petitioner has he worked for more than 240 days and for this reason also the petitioner would not be entitled to any relief. But this is seen false from the document produced by the Respondent itself. Ex.M1 is the application made by the petitioner for the post of Peon showing the days he had worked for the period from June 1992 to March 1997. This would show that he had worked for more than 240 days in the years 1994, 1995 and 1996.

12. The petitioner, though unceremoniously turned out of the services of the Respondent Bank as early as in September 2004 seems to have been keeping silent against his termination. He seems to have approached the Respondent with a request for reinstatement only in May 2009. Even as stated by him in his Claim Statement, he has come to know that a covenant was made between the Bank and Employees Federation on 18.03.2008. The petitioner seems to have approached the Bank again on coming to know about this covenant. However, what is seen from the terms of the covenant is that the petitioner would not be entitled to reinstatement on the basis of the same. The document itself is marked as Ex.W21. This provides for absorption of casual or temporary workers in phases. However, the terms of the settlement is applicable only to those casual employees who were still working under the Bank and not those who have ceased to work under the Bank for whatever reasons. So the petitioner would not be entitled to reinstatement on the basis of the terms of settlement which has come into existence on 13.03.2008, long after he had quit the services of the Bank.

13. The Apex Court has stated that reinstatement in service was not to be given as a matter of course. It has been stated by the Apex Court that though Limitation Act is not applicable to the reference under the ID Act, delay in raising Industrial Dispute is an important circumstance which the Labour Court must keep in view at the time of exercise of discretion irrespective of whether or not such objection has been raised by the other side (unreported decision in ASSISTANT ENGINEER, RAJASTHAN STATE AGRICULTURE MARKETING BOARD VS. MOHAN LAL—DATED 16.08.2013). The petitioner has been maintaining silence after he was sent out from the service of the Respondent Bank for a long time. He seems to have been satisfied with the other employment he was having. He thought of going back to the Bank only on coming to know of the settlement regarding absorption of casual workers. In such circumstance, the claim of the petitioner for reinstatement certainly could not be allowed.

14. It is a fact that the petitioner has been working with the Bank for a long time, for several years. Even as admitted by the Respondent he had worked in different branches of the Bank at different times. In spite of that he was sent out without any compensation. Considering this, the petitioner is entitled to compensation from the Respondent, which is fixed as Rs. 75,000.

15. The Respondent shall pay the petitioner Rs. 75,000 as compensation within two months. In the event of default of payment of the amount within the stipulated period, it will carry interest @ 6% per annum from the date of the order.

16. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 28th October, 2013)

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner Union : WW1, Sri J. Tamil Selvam

For the 2nd Party/Management : MW1, Sri M. Mohan

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	02.01.1990	Community Certificate of the Petitioner
Ex.W2	27.07.1990	Record Sheet of the Petitioner
Ex.W3	06.06.1991	Certificate given by the Respondent
Ex.W4	13.08.1991	Call for publication issued by the Respondent
Ex.W5	19.08.1991	Certificate given by the Respondent
Ex.W6	11.08.1992	Certificate given by the Respondent
Ex.W7	12.08.1992	Certificate given by the Respondent
Ex.W8	27.04.1994	Holiday salary intimation by the Respondent
Ex.W9	05.02.1996	Service regularize letter in STF/24
Ex.W10	04.07.1996	Conduct certificate given by the Respondent
Ex.W11	25.03.1997	Confirmation letter of petitioner service
Ex.W12	24.04.1997	Service regularize letter in STF/23
Ex.W13	13.05.1998	Communication letter of the Respondent
Ex.W14	31.03.1999	Statement of the petitioner given by the Respondent
Ex.W15	13.05.1999	Recruitment in Sub-Staff cadre of temporary workers

Ex.W16		Arrears amount payable to the petitioner
Ex.W17	24.01.2001	Service regularize letter in ER/ GEN/27/1187
Ex.W18	22.06.2001	Verification of community letter of the petitioner
Ex.W19	07.12.2001	Communication letter from the AIBOBOA
Ex.W20	30.11.2001	Service regularize letter
Ex.W21	08.03.2008	Settlement
Ex.W22	26.05.2008	Letter by the petitioner
Ex.W23	16.06.2009	Letter by the Respondent

On the Management's side

Ex.No.	Date	Description
Ex.M1	-	Application for the post of Peon
Ex.M2	28.06.2012	Letter from—GM-Shanthi Poultry Farm Pvt. Ltd., Pappampatti regarding permanent employment of petitioner with them
Ex.M3	-	Extract of Book of instructions as on 31.12.2003—covering—Covering policy on recruitment—Chapter 20 Page Nos. 310 to 323
Ex.M4	17.09.2004	Voucher

नई दिल्ली, 21 फरवरी, 2014

का०आ० 899.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोचीन पत्तन न्यास के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अरुनाकुलम के पंचाट (संदर्भ सं० 17/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 21.02.2014 को प्राप्त हुआ था।

[सं० एल-35011/01/2011-आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 21st February, 2014

S.O. 899.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 17/2012) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure in the industrial dispute between the management of Cochin Port Trust and their workmen, received by the Central Governmnet on 21/02/2014.

[No. L-35011/01/2011-IR(B-II)]
RAVI KUMAR, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ERNAKULAM**

Present: Shri D. Sreevallabhan, B.Sc., LL.B.,
Presiding Officer

(Thursday, the 24th day of October, 2013/02nd Kartika,
1935)

ID 17/2012

- Unions: 1. The Convenor
Kochi Thuramugha Samrakshana Samithi
CPSA Office
W/Island
KOCHI (KERALA)-9
2. The Chairman
Trade Union Co-ordination Committee
Building Bristow Road, W/Island
COCHIN-3
By Adv. Shri B.N. Shiva Shanker
- Managements: 1. The Chairman
Cochin Port Trust
W/Island
Cochin-682009
2. The General Manager
India Gateway Terminal Pvt. Ltd.
W/Island Cochin
By M/s Menon & Pai

Thise case coming up for final hearing on 23.10.2013 and this Tribunal-cum-Labour Court on 24.10.2013 passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India/Ministry of Labour by its Order No-L-35011/01/2011-IR(B-II) dated 25.04.2012 referred this industrial dispute for adjudication to this tribunal.

The dispute is:

"Whether the action of the management of Cochin Port Trust and IGPTL in not addressing the issues raised by the KTSS & Trade Union Co-ordination committee in connection with continued operation of RGCT is justified? What relief the member workers of these unions are entitled to?"

3. After receipt of summons both the two unions and the two managements entered appearance. First union did not file any claim statement. 2nd union filed claim statement alleging that the denial of employment to more than 100 workmen of the two unions in this case who were engaged in leashing and unleashing work in the Rajiv Gandhi Container Terminal (RGCT) administered by the Cochin Port Trust in the International Container Transportation Terminal (ICTT) after its formation under the pretext that they had voluntarily retired from service is unlawful and the refusal of the managements to address the issues raised by the two unions about it is unjustifiable.

4. Managements 1 & 2 filed separate written statements. After denying the employer-employee relationship it is contended that the claim is made for 153 non-port workers who were engaged by the contractors of the port users. Except 21 out of them all others had voluntarily retired from service. From the 21 only one of them had applied for employment and thereby he was already employed.

5. After filing claim statement unions were continuously absenting on all the posting dates and hence set ex-parte. An affidavit was filed from the side of managements in support of the contentions raised in the written statement.

6. Since the unions have not adduced any evidence to prove the allegations in the claim statement and there is no material on record to satisfy that the refusal to address the issues raised by the unions in connection with continued operations of RGCT is not justifiable it is not even possible to find that there is employer-employee relationship between the workmen and the managements to raise an industrial dispute. Unions have failed to prove that there is no justifiability in not addressing the issues raised by the unions as to the continued operation of RGCT.

7. In the result an award is passed holding that the management of the Cochin Port Trust and IGPTL in not addressing the issues raised by the KTSS and Trade Union Coordination Committee in connection with continued operation of RGCT is justified and hence the member workers of the unions are not entitled to any relief.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 24th day of October, 2013.

D. SREEVALLABHAN, Presiding Officer

नई दिल्ली, 21 फरवरी, 2014

का.आ. 900.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ओवरसिस बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ सं. 94/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 21.02.2014 को प्राप्त हुआ था।

[सं. एल-39025/01/2010-आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 21st February, 2014

S.O. 900.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 94/2013 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Indian Overseas Bank and their workmen, received by the Central Government on 21/02/2014.

[No. L-39025/01/2010-IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 27th January, 2014

Present : K.P. PRASANNA KUMARI,
Presiding Officer

Industrial Dispute No. 94/2013

(In the matter of the dispute for adjudication under clause 2(A)(2)(1) of the Industrial Disputes Act, 1947 (as amended by Act-24 of 2010 w.e.f. 15.09.2010). between the Management of Indian Overseas Bank and their workman)

BETWEEN

Sri P. Sasikumar : 1st Party/Petitioner

AND

1. The Management of Indian Overseas: 2nd Party/1st
Central Office at No. 763, Anna Salai Respondent
Chennai-600002

2. The Deputy General 2nd Party/2nd
Manager : Respondent
Indian Overseas Bank
Central Office at No. 763, Anna Salai
Chennai-600002

Appearance:

For the 1st Party/Petitioner: M/s. T. Ramkumar & C.D.
Sugumar, Advocates

For the 2nd Party/1st & 2nd Management: M/s. T.S. Gopalan & Co.,
Advocates

AWARD

The petition is filed under Section-2(A) of the Industrial Disputes Act:

2. In the petition the petitioner has challenged the action of the Respondent in terminating his service and seeks the relief of reinstatement in the service of the Respondent.

3. The petitioner seems to have raised the dispute before the Labour Commissioner also. The dispute has been referred by the Government to this Court and it has been taken on file as ID 3/2014.

4. The subject matter of ID 3/2014 and that of this petition is one and the same. In view of this the petitioner has filed a memo stating that he prefers to pursue ID 3/2014 only and that appropriate orders may be passed in this case.

5. There is no necessity for the petitioner to pursue this case also since he has decided to pursue the matter that has been referred by the Govt. to this Tribunal for adjudication.

6. So this matter is only to be closed.

Accordingly, the ID is closed.

(Dictated to the P.A., transcribed and typed by hi, corrected and pronounced by me in the open court on this day the 27th January, 2014)

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined

For the 1st Party/Petitioner: None

For the 2nd Party/Management: None

Documents Marked

On the Petitioner's side

Ex. No.	Date	Description
	Nil	

On the Management's side

Ex. No.	Date	Description
	Nil	

नई दिल्ली, 21 फरवरी, 2014

कांआ 901.—औद्योगिक अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कार्पोरेशन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (06/2011) प्रकाशित करती है जो केन्द्रीय सरकार को 21/02/2014 को प्राप्त हुआ था।

[सं एल-12012/61/2010-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 21st February, 2014

S.O. 901.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the Award (Ref. 06/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the Industrial Dispute between the management of Corporation Bank and their workman, received by the Central Government on 21/02/2014.

[No. L-12012/61/2010-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 28th November, 2013

Present : K. P. PRASANNA KUMARI,
Presiding Officer

Industrial Dispute No. 6/2011

(In the matter of the dispute of adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Corporation Bank and their workman)

BETWEEN

Smt. N. Amala : 1st Party/Petitioner

AND

1. The Dy. General Manager: 2nd Party/
Corporation Bank, Zonal Office 1st Respondent
Whites Road, Chennai-600014

2. The Branch Manager: 2nd Party/2nd
Corporation Bank Respondent
Ground Floor, Midland
Insurance Bldg.
Anna Salai, Teynampet,
Chennai-600018

3. The General Manager : 2nd Party/3rd
Corporation Bank, Head Office Respondent
Pandeshwar, Managlore-575001

Appearance:

For the 1st Party/Petitioner: M/s T. Fennwalter
Associates, Advocates

For the 2nd Party/1st, 2nd : M/s T.S. Gopalan & Co.,
& 3rd Respondents Advocates

AWARD

The Central Government, Ministry of Labour & Employment *vide* its Order No. L-12012/61/2010-IR (B-II) dated 14.12.2010 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the management of Corporation bank, Chennai in terminating

Smt. N. Amala, an Ex-Sweeper-cum-Office Assistant from the service *w.e.f.* 12.03.2006 is legal and justified? What relief the workman is entitled to?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 6/2011 and issued notice to both sides. Both parties appeared through counsels and filed their claim and counter statement respectively.

3. The averments in the Claim Statement of the petitioner are these:

The petitioner had entered the service of the Corporation Bank in its Teynampet Branch on 15.12.2004 as Sweeper-cum-Office Assistant. She was continuously working in the branch and was carrying out her work sincerely. The petitioner used to reach the Office at 09.30 AM, and apart from doing the cleaning work as Sweeper, she was also taking letters and parcels to Zonal Office and also assisting the bank staff by doing the work entrusted with her. The Respondent Bank had terminated the services of the petitioner without issuing any notice or any charge sheet. She was not paid any compensation also. The petitioner had completed more than 480 days in the service of the Respondent. She was paid salary through vouchers. The petitioner had issued notice to the Respondent against her illegal termination. The petitioner has approached the Assistant Commissioner of Labour since her attempt to get back into service by herself failed. The petitioner is entitled to an order of reinstatement with continuity of service, back wages and other attendant benefits.

4. The Respondent has filed Counter Statement contending as follows:

Teynampet Branch of the Respondent Bank was opened on 15.12.2004. The petitioner's brother who was working as Attender of another branch of the bank had approached the Chief Manager with request to engage her as Sweeper. He had informed that she is a widow and she is to bring up her two children. On humanitarian consideration, she was engaged as casual sweeper. It was made clear to her at that time that the engagement would cease once the empanelled candidate is posted at the branch. At the time when the Teynampet branch was opened the panel of temporary sweepers for the Respondent Bank had exhausted. Later requisition was sent to the Employment Exchange to sponsor candidates for the post of temporary sweepers. One out of the candidates sponsored by the Employment Exchange was selected and was posted at Teynampet Branch *w.e.f.* 12.03.2006. The petitioner though registered with the Employment Exchange, her name was not sponsored for the post. The petitioner is not entitled to any relief.

5. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Exs. W1 to Ex. W11 and Ex. M1 and Ex. M2.

6. The points for consideration are:

- (i) Whether the Respondent is justified in terminating the service of the petitioner?
- (ii) What is the relief to which the petitioner is entitled?

The Points

7. The petitioner was engaged as a casual sweeper in the newly opened branch of the Respondent Bank at Teynampet on 15.12.2004. The petitioner has stated in her petition that she had been sincerely working with the branch continuously but she was retrenched without any compensation and that she was not issued any charge sheet before she was sent away from service. She has further stated that she has completed service of more than 480 days under the Bank. However, she has not stated in her Claim Statement on which date she ceased to be employed by the Respondent Bank.

8. The Respondent has admitted in the Counter Statement that the petitioner was in its service as a casual employee from 15.12.2004 on which date the Teynampet Branch was opened and had worked upto 12.03.2006. Though, the date of termination is not stated by the petitioner in the petition, she has admitted during her cross-examination that she had worked in the bank till 11.03.2006. The period of employment of the petitioner with the bank is a little more than 1 year and two months. So the claim of the petitioner that she was employed for more than 2 years with the Respondent is not correct. So also the claim that she had completed 480 days work within the said period also could not be correct. In any case, beyond doubt she had worked for more than 240 days with the Bank. The petitioner has filed IA 41/2013 before this Court to direct the Respondent to produce documents like salary vouchers, delivery register book, attendance register, etc. for the period from 15.12.2004 to 12.03.2006. In answer to this IA the Respondent has stated that it is not in dispute that the petitioner was working in the establishment for the period.

9. The case that is advanced by the petitioner is that having completed her service with the Respondent for more than 2 years, she should not have been turned out from work by the Respondent and that she is entitled to be reinstated in service.

10. The contention that is raised by the Respondent is that the engagement of the petitioner was only for a temporary period. What is stated in the Counter Statement is that even at the time of engagement the petitioner was made aware that her engagement would cease once the empanelled candidate was posted at the branch. According to the Respondent, the practice was to maintain a panel for temporary sweepers but at the time when the new branch

was opened the panel has exhausted and it was accordingly the petitioner was engaged for the work. It is further stated in the Counter Statement that subsequently requisition was made to the Employment Exchange to sponsor candidates and out of the 10 candidates who were sent, one Pushpalata was selected and was appointed *w.e.f.* 12.03.2006 and accordingly the engagement of the petitioner has ceased. This case of the Respondent is admitted by the petitioner during her cross-examination. She has stated during her cross-examination that the Teynampet Branch Manager of the bank had told her that she will be posted in the branch only till a regular sweeper is posted. According to the counsel for the Respondent, the termination of the petitioner comes under Clause-(bb) of Section-2(oo) of the Industrial Disputes Act which defines the term "retrenchment". The Sub-clause states that the termination of service of workman as a result of non-renewal of the contract of the employment between the employer and the workman concerned on its expiry or such contract being terminated under a stipulation in that behalf contained therein will not be retrenchment.

11. Probably there was an understanding that the engagement of the petitioner as Sweeper with the Bank will be only till a permanent arrangement for the same is made. Probably it can be taken as one that comes under Clause-(bb) of the definition to the term "retrenchment".

12. However, the argument that is advanced by the counsel for the petitioner is that the petitioner was entitled to continue in service of the Respondent on the basis of policy adopted by it and the circular issued by it on 23.03.2006 in this respect. According to the counsel, the petitioner was not allowed the benefit of the circular only on the basis that she was over-qualified. The circular which is marked as Ex. W2 states that Part-Time Sweepers who are working on consolidated wages in branches, extension counters and other offices as on 28.02.2006 as a one-time measure will be converted to regular Part-Time Sweeper on 1/3rd graded scale wages *w.e.f.* 01.04.2006. Certain conditions are also imposed for this regarding the educational qualifications of the persons, etc. Apparently, the petitioner was working with the bank as on 28.02.2006 and she would have been entitled to the benefit of the circular.

13. It seems the petitioner was not given the benefit of the above circular on the basis that she was over qualified. The Respondent has examined MW1 who was working as Branch Manager at Teynampet Branch at the time when the branch was opened. He has stated during his cross-examination that because of over-qualification of the petitioner she was not appointed as a Sub-Staff. The policy adopted by the branch regarding the educational qualification required for the Sub-Staff is found in Ex. M1, the circular issued by it. It states that for a part time sweeper there is no minimum qualification but should not have completed 7th Standard. As seen from the documents

produced by the petitioner herself, she seems to be a victim of over-qualification. Unfortunately, she has studied upto 10th standard, though, she has not passed the examination. This is seen from Ex. W1, the representation given by her to the General Manager to give regular appointment to her. As seen from Ex. W3 and Ex. W4 subsequently also she had given representation to the Bank. If the evidence of MW1 is taken into account she was denied regular employment because of the over-qualification. Even in the affidavit in lieu of chief examination, MW1 had stated that the petitioner could not have been included in the panel since she has studied upto 10th standard. He has stated that over-qualification is a disqualification.

14. The Apex court has stated that over-qualification could not be taken as a disqualification. In the decision in Mohammad Riaszul Usman Gani and others Vs. District and Sessions Judge, Nagpur and others reported in 2000 (1) Supreme 460, the Apex Court has held that the criteria that applicants who studied above 7th standard should not be called for interview for the post of Class-III and IV has the effect of denying a candidate his right to be considered for the post. The Apex Court has observed that higher qualification cannot become a disadvantage to the candidate and that the criteria put is irrational. In the decision Rajalakshmi Vs. The Tahsildar, Vanur taluk reported in CDJ 2011 MHC 2597 also it is held that higher qualification should not become a disadvantage to a candidate to be appointed in a particular post. In the decision in Kerala Solvent Extractions Ltd. Vs. Unnikrishnan Nair reported in 1994 (2) LLJ 888, the question was one of suppression of fact. The workman in the case had obtained employment suppressing his qualification. He had got empanelled as Badli Workman obtaining a certificate that he had passed 7th standard, but actually he had completed 10th standard. The Labour Court had left that it did not amount to false representation. The High Court stated that no prejudice would be caused to the employer and directed reinstatement as a special case. The Division Bench dismissed the appeal. Before the Apex Court the counsel for the employer had argued that those employees who stated the truth had been at a disadvantage and those who suppressed it stood to gain in view of the decision. He argued that laxity of judicial reasoning would introduce slackness and unpredictability in the legal process and in the final analysis corrode legitimacy of the judicial process. Agreeing with this submission of the counsel the Apex Court has held "reliefs granted by the Courts must be seen to be logical and tenable within the framework of the law and should not incur and justify the criticism that the jurisdiction of the Courts tends to regenerate into misplaced sympathy, generosity and private benevolence.Expansive judicial mood of mistaken and misplaced compassion at the expense of the legitimacy of the process will eventually lead to mutually irreconcilable situations and denude the judicial process of its dignity, authority, predictability and respectability". The Apex Court has thus

allowed the appeal. It could be seen from the above reasoning to the Apex Court that it was only referring to the suppression of the fact by the concerned worker. The dictum laid down by the Apex Court earlier that over-qualification could not be a disqualification still holds good. In the present case, there was no suppression of the fact. The petitioner has truthfully stated in her application that she has studied upto 10th standard. If over-qualification is not a disqualification she was entitled to continue in service. Considering these aspects I find that the petitioner is entitled to be reinstated in service as a casual worker which she was at the time of termination.

15. The Respondent is directed to reinstate the petitioner in service within a month. She will not be entitled to any back wages or other benefits.

16. The reference is answered in favour of the petitioner.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 28th November, 2013).

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner: WW1, Smt. N. Amala

For the 2nd Party/Management: MW1, Sri K. Vijayaraghavan

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	19.08.2005	Petitioner's application was forwarded for employment by the Respondent
Ex.W2	23.03.2006	Circular issued by the Respondent
Ex.W3	08.08.2006	Representation given by me for employment
Ex.W4	20.02.2007	Representation given by me for employment
Ex.W5	—	Ration Card
Ex.W6	—	Transfer Certificate
Ex.W7	13.02.2007	Service Certificate issued by the Respondent
Ex.W8	18.04.2007	Reply given by the Respondent
Ex.W9	25.01.2008	Legal notice given by the petitioner
Ex.W10	20.05.2008	Representation given by the petitioner
Ex.W11	16.11.2009	Reply filed by the Respondent in 2 (A) petition.

On the Management's side

Ex.No.	Date	Description
Ex.M1	18.03.1998	Respondent's Head Office Circular No. 97/98

Ex.M2 26.06.2009 Head Office Circular No. 374/2009
नई दिल्ली, 21 फरवरी, 2014

कांआ 902.—औद्योगिक अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ सं 43/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 21.02.2014 को प्राप्त हुआ था।

[सं एल-12011/83/2012-आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 21st February, 2014

S.O. 902.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 43/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the Industrial dispute between the management of Indian Bank and their workman, received by the Central Government on 21.02.2014.

[No. L-12011/83/2012-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 3rd January, 2014

PRESENT:

K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 43/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Indian Bank and their workman)

BETWEEN

The General Secretary: 1st Party/Petitioner Union
Indian Bank Employees Union
6, Moore Street, Mannady Corner
Chennai-600001

AND

The General Manager: 2nd Party/Respondent
Indian Bank, Zonal Office
10, Kamaraj Salai
Puducherry-605010

APPEARANCE:

For the 1st Party/Petitioner: M/s Bright Sun Law Associates, Advocates

For the 2nd Party/Management: M/s T.S. Gopalan & Co., Advocates

जबलपुर के पंचाट (संदर्भ संख्या 46/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.02.2014 को प्राप्त हुआ था।

[सं एल-12012/243/2002-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 21st February, 2014

AWARD

The Central Government, Ministry of Labour & Employment *vide* its Order No. L-12011/83/2012-IR (B-II), dated 11.03.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

2. The ID has been referred to this Court with the following schedule and has been numbered as ID 43/2013:

"Whether the demand of the Indian Bank Employees Union in modifying the punishment of "Dismissal" to "Compulsory Retirement" from service to Sri. V. Kumar, Clerk/Shroff of Mazhavanthangal Branch, Indian Bank is justified? What relief the workman concerned is entitled?"

3. The First Party has entered appearance in the matter. He has engaged a counsel for him also. However the First Party as well as his counsel have been continuously absent. Even though the case was repeatedly posted for filing Claim Statement, there was no response from the side of the First Party. He seems to be not interested in prosecuting the case.

4. In the above circumstances, the petition is dismissed. The reference is answered against the petitioner.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 3rd January, 2014)

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner: None

For the 2nd Party/Management: None

Documents Marked:**On the petitioner's side**

Ex.No.	Date	Description
		None

On the Management's side

None

नई दिल्ली, 21 फरवरी, 2014

का०आ० 903.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण

S.O. 903.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. 46/2003) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as show in the Annexure, in the industrial dispute between the management of State Bank of India, and their workmen, received by the Central Government on 21.02.2014

[No. L-12012/243/2002-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM-LABOUR COURT,
JABALPUR**

No. CGIT/R/46/2003

Presiding Officer: SHRI R.B. PATLE

Shri Babulal Dixit,
S/o Mishrilal Dixit,
189, Bhim Nagar,
Birla Mandir Road,
Bhopal (MP)

..... Workman

Versus

The Asstt. Manager,
State Bank of India,
Region-I, Zonal Officer,
Hamidia Road,
Bhopal (MP)

.....Management

AWARD

(Passed on this 21st day of January 2014)

1. As per letter dated 14.2.2003 by the Government of India, Ministry of Labour, New Delhi, the Reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-12012/243/2002-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of Asstt. General Manager, State Bank of India, Regional-I, Bhopal in terminating the services of Shri Babulal Dixit S/o Mishrilal Dixit w.e.f 23.4.97 and not regularizing him is justified? If not, what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Case of Ist party workman is that by oral order

dated 23-4-97 by Shri Hemant Kumar Ojha, Branch Manager, workman was prevented to attend his service from 24-4-97. No dismissal or order of termination or retrenchment were given. Workman was illegally prevented from attending service. It is further submitted that workman was engaged as messenger in Jehangirabad Branch, Bhopal. He worked for 244 days from November 81 to 82, mere than 90 days in November 82 to March 83, 193 days during April 83 to Jan-84 & 1370 at Vindyanchal Branch, Bhopal from 20-7-93 to 23-4-97. He was orally discontinued from service. That IInd party had admitted in its submissions dated 8-2-2002 that workman had worked for 244 days during November 81 to November 82, 193 days during April 83 to January, 84, 142 days from 17-7-93 to 31-12-93 and 840 days from 1-4-94 to 29-4-97. Workman further submits that he had completed 240 days continuous service in each calendar year. He is entitled for absorption as permanent employee. Instead of regularizing his services, he was terminated orally.

3. Workman submits that Respondent Bank had invited applications for absorption of temporary employees is Bank. He had submitted application on 18-5-91. His name was in Waiting List, he was allowed to resume at Vindyanchal Branch as protected employee. He was accordingly working in said branch from 23-7-93 to 13-4-96. He further submits that Bank is denying permanent appointment on the ground that his date of birth was 1-12-65. After attaining age of 18 years, he worked for only 38 days. He is not entitled for absorption as permanent employees. Other temporary persons who had worked even for 30 days were absorbed but the workman after working for more than 30 days, he was denied absorption. Rather his services are terminated illegally. On such grounds, workman prays that respondent be directed to appointment him with full back wages.

4. IInd party filed Written Statement at Page 10/1 to 10/11. IInd party submits that workman was engaged purely on daily wage basis as Messenger, working days are shown 49 days during November, 91 to December 91, 195 days during January 82 to November 82 & 193 days during April 83 to Jan. 84 at Jehangirabad branch. At Vindhyanchal branch, working days are shown as 142 days during July 93 to Dec. 93 & 840 days from April 94 to Dec. 97. The workman was engaged on contract basis on exigency of work and as soon as the work is over, the employee was not required to report from work. The dispute was raised by workman. Working days are reiterated by the IInd party. However it is pleaded that workman was not continuously working for 240 days in any calendar year as provided under Section 25-F of I.D. Act. The engagement of workman was contractual depending on exigency of work. His termination is covered under Section 2(oo)(bb) of I.D. Act.

5. IInd party advertised in newspapers for furnishing application on the prescribed formats for such a daily rated

employees/casual workers who have worked for the stipulated period as provided under the settlement during the period *w.e.f.* 31-7-88 to 14-8-91. Workman was also considered. However he had worked only for 38 days after attaining majority during the relevant period. Therefore he cannot be empanelled for permanent employment in the vacancy available. As per the settlement, the panel was required to be kept alive till March 1997 so that opportunity for permanent employment could be given to the permanent candidates. The action of the management is legal. It is further pleaded that the candidates were interviewed and panel of selected candidates was prepared by Bank in accordance with settlement of candidates working from 31-7-88 to 14-8-91. That after attaining majority, workman has worked only for 38 days. Therefore he could not be given permanent employment. It is reiterated that the workman has not completed 240 days continuous service. On such ground, IInd Party prays for rejection of claim of workman.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|---------------------|
| (i) Whether the action of the management of Asstt. General Manager, State Bank of India, Region-I, Bhopal in terminating the services of Shri Babulal Dixit S/o Mishrilal Dixit <i>w.e.f.</i> 23-4-97 and not regularizing him is justified? | In Negative |
| (ii) If not, what relief the workman is entitled?" | As per final order. |

REASONS

7. Ist party is challenging oral discontinuation from service. That he has filed affidavit of his evidence. He has stated that he had worked 90 days as waterman in the year 1982, 193 days from April 83 to January 84 Employer conducted his interview for permanent absorption. He had applied for the post. He was called as per letter dated 28-10-92. On 12-2-97, he was informed by the employer that he was interviewed earlier he did not appear for interview. That his name was included in the waiting list, he was directed to join at Vindhyanchal branch on his completing majority. He was paid salary and DA through Banker cheque. He was continued till 23-4-97. Suddenly he was discontinued from next date. In his cross-examination, workman says that he denied suggestion of management about working days 49 days during November 81 to December 81, 195 days during January 82 to November 82 and 193 days during April 83 to January 84 at Jehangirabad branch, Bhopal. It is denied that he worked for 142 days

during July 93 to December 93 and 840 days during April 94 to December 97 at Vindhyanal branch, Bhopal. workman has not produced any evidence about his working days but as per admission in Written Statement filed by management and suggestion in cross-examination of workman, it is clear that workman was working for 840 days from April 94 to Dec. 97. The said period is decided when working days comes more than 240 days during each of the calendar year. Workman in his cross-examination claims ignorance about permanent appointment made in the Bank as per settlement. He has stated that he was called for interview for permanent post. He claims ignorance whether he was not given permanent employment as his working days were 38 days after attaining majority. Workman in his statement of claim has pleaded that one Anil Kumar Narvria working for 30 days was given permanent employment. However any evidence is not produced. Management filed affidavit of witness Shri Kulkarni. He has given working days of Ist party workman in parat 2 of his affidavit that during the period from July 93 to Dec. 93, he worked for 142 days and from 1-4-94 to 20-4-97, he worked for 840 days. Though in further paras, he denied workman working from 240 days during any of the calendar year. The calculation of working days during April. 94 to April 94 comes more than 240 days during each calendar year. In his cross-examination, management's witness says that only after looking report, he could say whether the workman had worked for more than 240 days in each calendar year. With respect to Shri Anil Kumar Narvria, witness claims ignorance. He also claims ignorance whether name of workman was recommended by the Selection Committee but the workman was not given appointment for permanent post.

8. The documents Exhibit W-I shows working days of workman as 244 days from November 81 to November 82. Exhibit W-2 shows 90 working days since 1982. Exhibit W-3 shows payment of wages for 193 days from April 83 to Jan-84. Exhibit W-4 is letter given by Asstt. General Manager. That workman had worked for only 38 days during 1-7-75 to 31-12-93. He could not be given appointment on permanent post. Copy of Supreme Court Judgement is produced at Exhibit W-5. The claim of workman cannot be decided on such judgement. Copies of settlements are produced at Exhibit W-7. The settlement Exhibit M-1 deals with the temporary employees in subordinate cadre will be given chance for being considered for permanent appointment in the Bank's service against vacancies likely to arise in 1987 to 1991. (i) Category A employees those who have completed 240 days temporary service in 12 months or less after 1-7-75, (ii) Category B- those who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months after 1-7-75. The documents produced Exhibit W-1 shows 244 working days of workman during November 81 to

November 82. Workman in his cross-examination has stated that his date of birth is 1-12-1965. Thus he would completed 18 years of age on 30-11-1983. The working days of workman were not considered till the date of attaining majority. The management found that the workman had worked only for 38 days after attaining majority.

9. From statement of claim of management, working days of workman is 193 days during April 83 to Jan. 84 and 142 days during July 93 to Dec. 93 & 840 days from April 94 to Dec. 97 the working days clearly shows that the workman is entitled to permanent post and he had worked more than 30 days after 1975. The denial of permanent post to the workman cannot be said legal. Besides above, the workman had completed 240 days regular service during 1994 to 1997. The workman was not given notice for termination of service. His services were orally terminated. He was not paid retrenchment compensation.

10. Learned counsel for IInd Party Mr. Tripathi on the point relates on ratio held in plenty of cases.

"In case of Bharat Sanchar Nigam Limited and others versus Abhishek Shukla and another reported in 2009(5) Supreme Court Cases 368. Their Lordship held validity of selection list is ordinarily one year. In the case where respondents had made representations for appointment within one year of such approval of select list, the said requirement stood fulfilled."

The facts of present case are not comparable. The Bipartite settlement provided for absorption of temporary employees working till initially 1993 and onwards 97. The ratio held in the case cannot be applied beneficially in the present case at hand.

"In case of State of MP and others versus Raghuveer Singh Yadav and others reported in 1994 (6) Supreme Court Cases 151. Their Lordship dealing with appointments, selection, fresh selection after changing qualifications for eligibility, legality notification inviting applications from eligible candidates. Held withdrawal of the said notification at this stage and issuance of fresh notification inviting applications from candidates eligible under the new rules held not illegal."

The facts of the present case are not comparable. The services of workman is covered by Bipartite Settlement. The Bipartite settlement provided for absorption of temporary employee working for certain number of days during July 1975 till extended period 1993. Workman was continuously working from 1993 till his discontinuance in 1997. The ratio cannot be applied to the present case at hand.

"Ratio in case of Shankarsan Dash versus Union of India reported in 1991(3) Supreme Court Cases 47. That candidate included in merit list has no indefeasible right to appointment even if vacancy exists."

It cannot be applied to present case. The claim of the applicant is based on the settlement to absorb temporary employee for certain days as per the settlement. There was no execution for selection of the candidates as per the settlement.

In Case of Range Forest Officer versus S.T. Hadimani reported in 2002(3) Supreme Court Cases 25. Their Lordship held retrenchment compensation-completion of requisite length of continuous service where the workman claim that he had worked for more than 240 days in the year preceding his termination was denied by the employer held it was for the claimant to lead evidence to that effect held workman's affidavit was not sufficient evidence for the purpose."

In present case, IInd party has admitted in Written Statement and evidence of management's witness that during April 94 to 97 workman had worked for 840 days. If it is decided by 3, working days comes to 280 days during each calendar year. The burden is already discharged. Therefore the ratio in above cited case cannot be applied to present case at hand.

11. Learned counsel for workman Mr. Pranay Choubey relief on ratio held in

"Case of Medical versus Dashrathsingh. In para-19 of the judgment their Lordship observed the judgment of the constitution bench in Secretary, State of Karnataka versus Uma Devi and other decisions in which this Court considered the right of casual, daily wage, temporary and ad hoc employees to be regularised/continued in service or paid salary in the regular time scale, appears to have unduly influenced the High court's approach in dealing with the appellant's challenge to the award of the Labour Court. In our view, none of those judgments has any bearing on the interpretation of Section 25-F of the Act and employer's obligation to comply with the conditions enumerated in that section."

Ratio held in above cited case is clear that workman cannot be denied benefit for violation of Section 25-F of I.D. Act as per ratio held in case of State of Karnataka versus Uma Devi.

12. In present case, the applicant's claim is based on Bipartite Settlement providing absorption of temporary employees. Workman was called for interview, thereafter

he was working continuously from April 94 to April 97. His services are terminated without notice, retrenchment compensation is not paid. Therefore discontinuation of workman is in violation of Section 25-F of I.D. Act. For above reasons, I record my finding in Point No. 1 in Negative.

13. Point No. 2—In view of my finding in Point No. 1 that discontinuation of services of workman is in violation of Section 25-F of I.D. Act and as such illegal, question arises whether the workman is entitled for regularization. Considering the working days of workman from 1983-84 as 193 days, workman has fulfilled conditions for absorption as permanent employee. He was then working from April 94 to 97 for 840 days. Workman was entitled for protection of Section 25-F of I.D. Act. His services were terminated without notice. Workman was not absorbed as per settlement Exhibit W-7. Exhibit M-1 working days of workman are considered for the period 87 to 91. Workman has completed more than 30 days, 70 days provided in clause III "C" Category. Workman should have been absorbed as permanent employee. Management has not produced documents about vacancy of messenger during the relevant period. Workman is discontinued in 1997. His evidence is silent what work he was doing after discontinuation from service. Management has also not adduced that the workman was in gainful employment. Considering facts of the case, workman deserves to be reinstated. On the point of back wages, learned counsel for workman Shri Pranay Choubey produced copy of judgment in R/4/2007 decided by the undersigned. In said case, 50% back wages were allowed considering length of service of workman in said case during 79 to 99 almost 22 years. Workman was called for interview on 22-9-89 and allowed to work in branch from 1992 to 1997. Considering the facts, reinstatement of workman with 30% back wages would be appropriate. Accordingly I record my finding in Point No. 2.

14. In the result, award is passed as under:—

- (1) Action of the management of Asstt. General Manager, State Bank of India, Region-I, Bhopal in terminating the services of Shri Babulal Dixit S/o Mishrilal Dixit *w.e.f.* 23-4-97 and not regularizing him is illegal for violation of section 25-F of I.D. Act.
- (2) IInd Party is directed to reinstate workman with continuity of service with 30% back wages.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer